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P R O C E E D I N G S

1
2 (Transcript follows in sequence from Volume
3 2.)

4 **CHAIRMAN GRAHAM:** Good morning, everyone.
5 Good morning.

6 **MR. JAEGER:** Good morning.

7 **CHAIRMAN GRAHAM:** Come on. All right. I
8 think we can get started. I believe Commissioner Balbis
9 is probably on his way down.

10 Staff, you have some witnesses that were taken
11 out of order. Are they here?

12 **MR. JAEGER:** Yes, Chairman. Well, we have one
13 here, Patricia Carrico. Mr. Greenwell is scheduled to
14 come in at 10:45. And if Ms. Carrico's testimony gets
15 done before then, then we would slide to Rendell, I
16 think is what we would do, and then just pick up with
17 Mr. Greenwell after Rendell is what was planned.

18 **CHAIRMAN GRAHAM:** Let's do this. Anybody
19 that's in the audience that wasn't sworn in yesterday
20 that needs to be sworn in today, if I can get you to
21 stand and raise your right hand, please.

22 (Witness sworn.)

23 Thank you. Mr. Jaeger.

24 **MR. JAEGER:** Yes, Chairman. That was
25 Ms. Carrico that was just sworn in.

1 I will call Patricia Carrico from the
2 Department of Health to the stand.

3 **PATRICIA CARRICO**

4 was called as a witness on behalf of the Staff of the
5 Florida Public Service Commission and, having been duly
6 sworn, testified as follows:

7 **EXAMINATION**

8 **BY MR. JAEGER:**

9 Q Okay. Ms. Carrico, could you please state
10 your name and business address for the record?

11 A My name is Patricia Carrico. I work at the
12 Volusia County Health Department, 1854 Holsonback Drive,
13 Daytona Beach, Florida.

14 Q And have you prefiled direct testimony in this
15 docket consisting of four pages?

16 A Yes, I have.

17 Q Do you have any changes, corrections to your
18 testimony?

19 A No, I do not.

20 Q With those -- if you were asked the same
21 questions, would your testimony be the same today?

22 A Yes, it would.

23 **MR. JAEGER:** Chairman, may we have
24 Ms. Carrico's testimony inserted into the record as
25 though read?

1 **CHAIRMAN GRAHAM:** We will insert Ms. Carrico's
2 testimony into the record as though read.
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DIRECT TESTIMONY OF PATRICIA CARRICO

1
2 Q. Please state your name and business address.

3 A. Patricia Carrico, Volusia County Health Department, 1845 Holsonback Drive, Daytona
4 Beach, FL, 32117.

5 Q. Please provide a brief description of your educational background and experience.

6 A. I received a Bachelor of Science Degree in Environmental Health (Chemistry-Minor)
7 from Utah State University. Prior to my current employment with the Volusia County Health
8 Department (VCHD), I worked for 12 years at the City of Daytona Beach's water treatment
9 plant and laboratory. I also worked for five years as an Environmental/Quality Control
10 Technician for Amoco Oil Company in Whiting, Ind. I have been working for the past 10 ½
11 years as an Environmental Specialist II in the Safe Drinking Water Program here at the
12 VCHD.

13 Q. What are your general responsibilities at the Volusia County Health Department?

14 A. I am responsible for ensuring that public water systems in Volusia County are in
15 compliance with federal and state Safe Drinking Water Act (SDWA) regulations. My job
16 duties include performing field inspections; providing technical assistance and guidance to
17 water systems; reviewing laboratory and monthly operational reports; entering information
18 into the state's SDWA database; and initiating appropriate enforcement action, when
19 necessary.

20 Q. Are you familiar with the AUF water systems in Volusia County, particularly the
21 Tomoka View, Twin Rivers and Jungle Den public water systems?

22 A. Yes.

23 Q. Have any of these AUF systems been the subject of any DOH compliance enforcement
24 action within the past three years?

25 A. Yes. All three systems in Volusia County have been the subject of compliance

1 enforcement actions:

2 The **JUNGLE DEN** water system incurred a violation in **June 2010** for failure to
3 notify customers and this office of the planned conversion from free chlorine to chloramine
4 disinfection treatment. A 'warning letter' was issued by the Department on **2/3/2011**
5 addressing this violation. Aqua Utilities paid a penalty and signed a 'consent order
6 agreement' with an effective date of **5/27/2011**. The Consent Order is now closed. St. John's
7 River Utility, the supplier system for the Jungle Den consecutive water system, switched to
8 chloramine treatment in June, 2010. The required minimum 24 hour advance notification was
9 not given to Jungle Den customers nor to this office. The switch to chloramine treatment was
10 discovered during a routine inspection conducted by this office on November 3, 2010.)

11 The **TWIN RIVERS** water system incurred two violations – one in the 1st quarter and
12 one in the 2nd quarter of 2009 - both due to exceeding the Trihalomethane Maximum
13 Contaminant Level (THM MCL). A 'warning letter' was issued by the Department on
14 **4/22/2009** for this violation. Aqua Utilities paid a penalty and signed a 'consent order
15 agreement' with an effective date of **9/24/2009**. From 1/1/2009 to 6/30/2009, the Twin Rivers
16 system exceeded the 80 µg/l THM MCL due to high THM concentrations (151-205 µg/l)
17 reported during September-October of 2008. Following operational adjustments to the
18 existing chloramine treatment and increased monitoring, the reported THM concentration
19 dropped to 19 µg/l in the December 2008 sample. This system has been in compliance with
20 the THM MCL –which is based on a running annual average - since 7/1/2009.)

21 The **TOMOKA VIEW** water system has been the subject of six enforcement actions
22 within the past three years: The secondary Maximum Contaminant Levels for Total Dissolved
23 Solids (TDS) and Color were exceeded in monitoring conducted in **March 2009**. A 'non-
24 compliance' letter was issued by the Department on **8/24/2009** addressing both of these
25 violations. The concentrations for both of these contaminants were just slightly over their

1 MCL's. Since secondary MCLs are set mainly for aesthetic purposes and are not based on
2 adverse health effects, no additional treatment was mandated or is warranted at this time.)

3 The Tomoka View system exceeded the Trihalomethane Maximum Contaminant Level
4 during the first, second and third quarters of 2009 resulting in three violations. A 'warning
5 letter' was issued by the Department on **4/22/2009** for the first quarter violation. Aqua
6 Utilities paid a penalty and signed a 'consent order agreement' which addressed all three THM
7 MCL violations. The effective date of this 'consent order agreement' was **12/18/2009**.
8 Chloramine treatment was installed in December 2009. Since then, this system has been in
9 compliance with THM MCL.)

10 The Tomoka View system incurred two violations during the **January - June 2009**
11 monitoring period for failing to collect all required Water Quality Parameter samples and for
12 not reporting all Lead/Copper test results by the required due date. 'Non-compliance letters'
13 was issued by the Department related to these violations on **8/25/09** and **8/27/09**.

14 The Tomoka View system incurred a violation on **9/8/2009** for failure to maintain the
15 minimum free chlorine residual throughout the distribution system. Adequate free chlorine
16 residual was restored throughout the water system later that same day. A 'non-compliance
17 letter' was issued by the Department related to this violation on **9/14/2009**.

18 The Tomoka View system incurred a violation for failure to notify Department of
19 unusual odor and color in the drinking water during the month of **July 2010**. A 'non-
20 compliance letter' was issued by the Department related to this violation on **7/30/2010**.
21 (Additional Explanation: Aqua Utilities recorded numerous substantiated complaints from
22 Tomoka View customers in July 2010 regarding black and smelly water throughout the
23 distribution system. This office was not notified directly by the utility of water quality
24 problems. Our office only became aware of this issue when a customer called to complain
25 several weeks after these water quality issues were first documented by the utility.)

1 Q. Other than any violations discussed above, is AUF in compliance with all *DOH*
2 *requirements* for their water systems in Volusia County?

3 A. They are considered to be in compliance with *Safe Drinking Water Act* regulations at
4 the present time. However, these regulations are not considered to be 'DOH requirements';
5 rather they fall under DEP's regulatory authority.

6 Q. Is the overall operation and maintenance of these water treatment plants and
7 distribution facilities satisfactory?

8 A. Yes, at the present time.

9 Q. Do you have anything further to add?

10 A. These facilities had a total of 12 BWNs since 2009; four that were planned and two
11 that occurred during a stormwater line relocation project performed by Volusia County. Our
12 office was properly notified of each of these BWNs in a timely manner and the utility
13 documents submitted to our office indicate that BWNs were issued to their customers. I have
14 not been made aware of any incident when BWNs were not issued.

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1 **MR. JAEGER:** And there were no depositions to
2 Ms. Carrico's testimony -- I mean, I'm sorry. There
3 were no exhibits to Ms. Carrico's testimony, and she has
4 waived any summary, and so I will tender her for cross.

5 **CHAIRMAN GRAHAM:** Okay. I appreciate it.

6 Ms. Carrico, welcome. I guess first we'll
7 start with Aqua.

8 **MR. MAY:** Thank you, Mr. Chairman. We have no
9 questions for this witness.

10 **CHAIRMAN GRAHAM:** Okay. Any Intervenors?

11 **EXAMINATION**

12 **BY MS. CHRISTENSEN:**

13 **Q** Good morning, Ms. Carrico.

14 **A** Good morning.

15 **Q** I'm Patty Christensen with the Office of
16 Public Counsel, and I just have a few questions about
17 the testimony.

18 Now in your testimony that you filed
19 October 6th, 2011, you stated the overall operation and
20 maintenance of the Jungle Den, Twin Rivers, Tomoka View
21 water treatment plants and distribution facilities were
22 satisfactory at the present time; is that correct?

23 **A** That is correct.

24 **Q** Okay. And would you agree that all three
25 systems have had compliance issues with your department

1 over the past three years?

2 A Yes, they have.

3 Q Okay. Well, let's talk a little bit about
4 each of the systems.

5 A Okay.

6 Q Let's start with Jungle Den. Would you agree
7 that Jungle Den has had two instances, which you noted
8 in your testimony, of being out of compliance?

9 A I only noted, I believe, the consent order
10 that was handled by consent order agreement. What other
11 one are you referring to? The --

12 Q Looking on page 2 of your testimony.

13 A Yes.

14 Q You said that there was a warning letter
15 issued by the Department on February 3rd, 2011. Is that
16 correct?

17 A That is correct.

18 Q And that that warning letter resulted in a
19 consent order with an effective date of May 2000 -- or
20 May 27th, 2011; correct?

21 A That's correct.

22 Q Okay. And you -- and let me just clarify.
23 You consider that to be one consecutive incident?

24 A Yes, it is.

25 Q Okay.

1 A We send the warning letter out first and then
2 have a consent order agreement.

3 Q Okay. So that would be considered one
4 incident.

5 A Right.

6 Q Okay. Let's look at your testimony regarding
7 Twin Rivers system. Now regarding the Twin Rivers
8 system, you cite to two violations; is that correct?

9 A Yes. That is correct.

10 Q Okay. And one of those incidences was in the
11 first quarter of 2009?

12 A That is correct.

13 Q And then there was a second incident in the
14 second quarter of 2009; correct?

15 A Yes.

16 Q And both of those incidents were for exceeding
17 the tri -- excuse me -- trihalomethane maximum
18 containment level; correct?

19 A That's correct.

20 Q Okay. And there was a warning issue or,
21 excuse me, a warning letter issued on the -- April 22nd
22 of 2009 for this violation?

23 A That is correct.

24 Q Were both violations included in that warning
25 letter?

1 A No. There actually were -- the warning letter
2 was done on 4-22-09, which was right after the end of
3 the first quarter of that violation.

4 Q Okay.

5 A So we took action right away and wrote that
6 letter, you know, the warning letter saying that you
7 have exceeded this MCL. You know, we want you to come
8 in and, you know, do something about it basically. So
9 that letter was sent then.

10 When we finally got to the consent order
11 agreement stage they had another violation in that
12 second quarter. So we kind of rolled it into the
13 agreement, saying this will cover both of those
14 violations, the fine and the consent order agreement.

15 Q Okay. And so they paid a penalty and fine for
16 both violations?

17 A They did.

18 Q Okay. Now let's take a look at your Tomoka
19 View system.

20 A Yes.

21 Q Okay. And that had six enforcement actions in
22 the last three years; correct?

23 A That is correct.

24 Q Okay. And there -- in March of 2009 there was
25 a exceedance of, what was that, the maximum containment

1 level for total dissolved solids; is that correct?

2 A That is correct.

3 Q And color. And then that was -- resulted in a
4 noncompliance letter; is that correct?

5 A That is correct.

6 Q Now it appears that the letter talks about
7 addressing both of these violations, but I only see one
8 referenced in your testimony. Was there a second
9 violation that that noncompliance letter was addressing?

10 A It addressed the color and the TDS.

11 Q Okay. So those were considered two separate
12 violations?

13 A Yeah. They're two separate contaminants. We,
14 you know, call them two separate violations.

15 Q Okay. And then you also had an instance, or
16 three violations in the first, second, and third quarter
17 of 2009 for trihalomethane maximum level exceedance; is
18 that correct?

19 A That is correct.

20 Q Okay. And let me just make sure I understand
21 this. There was a warning letter issued after the first
22 quarter; correct?

23 A Yes.

24 Q And then there was a consent order that was
25 entered into in December -- or that was effective

1 December 18th, 2009; is that correct?

2 **A** Yeah. The effective date is kind of
3 misleading. We actually negotiated the consent order
4 agreement in -- during the summer of that year, and then
5 negotiated the settlement package that had to then be
6 signed. And when it becomes effective, that's when it's
7 signed by the clerk of the court. So that's usually a
8 month or so after it actually was done. But essentially
9 that's when it finally was closed out. But we
10 negotiated that during the August, September months.

11 **Q** Okay. And that consent order encompassed not
12 only the first quarter violation but the second and
13 third quarter violations for that tri maximum -- or
14 trihalomethane maximum containment level exceedances?

15 **A** Yes, it did.

16 **Q** Okay. And then there were two other
17 incidences in January and June of 2009; is that correct?

18 **A** That's the January to June monitoring period.

19 **Q** Okay.

20 **A** A six-month monitoring period.

21 **Q** And what was that noncompliance violations
22 that you cite in your testimony for?

23 **A** Those two -- those are two separate
24 violations. They're related to the lead copper rule,
25 which requires six, every six months they had to collect

1 tap water samples from the residents' homes. They were
2 supposed to have it done, the actual collection of the
3 samples by June 30th, and then give us the results by
4 July 10th, have them turned in to us, at least
5 postmarked by that date. I received results late from
6 that January through June monitoring period, I received
7 them in August, some extra samples that they neglected
8 to send in on time. So that was one violation.

9 And then the second violation, the water
10 quality parameter samples, they're required to be done
11 when you exceed the action level, they have to collect
12 these water quality parameter samples, two sets of them.
13 And they did one set but they didn't do the second set.

14 Q And what were -- what had they exceeded? Was
15 that the --

16 A They didn't -- oh, to do the water quality
17 parameter samples. They're required to do water quality
18 parameter samples when they exceed the copper action
19 level, which is -- it's not a violation. It's a trigger
20 that is something that after they do these lead copper
21 tap samples, then depending on the results, what they
22 get, if they're over 90% of this action level, then they
23 have to do these water quality parameter samples.

24 So it's not -- the action level is just kind
25 of like a set point. And if, I should say, over 10% of

1 the samples exceed that action level, then they do these
2 water quality parameter samples. That's, you know, kind
3 of kicks in that they then do this additional
4 monitoring.

5 Q That's a second leveling of testing, which
6 was --

7 A Right. Which they were notified of. And they
8 were supposed to do two sets, and they did one set but
9 they didn't do the second set.

10 Q Okay.

11 A Until late. I mean, they did do it but they
12 did it late.

13 Q Okay. And that resulted in noncompliance
14 letters; correct?

15 A That resulted -- I'm sorry. Yes. That
16 resulted in a noncompliance letter for each one of
17 those, one for the late reporting --

18 Q Okay.

19 A -- one for the water quality parameters not
20 being done on time essentially, or during the monitoring
21 period.

22 Q And no further action was taken other than the
23 noncompliance letter, if I'm understanding your
24 testimony correctly. Or was something further done by
25 the department?

1 A No, no further action was warranted, you know,
2 as far as that.

3 Q Okay.

4 A They came back into compliance. They did
5 their sampling that they had to do and have stayed on.

6 Q All right. And let me refer you down a little
7 bit further to the next paragraph. You also talk about
8 another violation that occurred September 8th, 2009, for
9 failure to maintain a minimum free chloride residue
10 throughout the distribution system; is that correct?

11 A Free chlorine residual.

12 Q Excuse me. Can you explain a little bit what
13 that violation entailed in a little bit more detail?

14 A That violation was something that occurred --
15 during this -- I should -- just to give you background.
16 During this time frame of 2009, we, of course, were
17 negotiating the THM, trihalomethane MCL consent order.
18 And during this time we had requested that Aqua
19 Utilities try to minimize the THM formation as much as
20 possible. By lowering the chlorine residual as much as
21 you can, as much as you can and still maintain the
22 minimum of 0.2, you create less THM.

23 So during this time frame they had not
24 installed the chloramine treatment yet. They were
25 running the system, you know, as low as they could, but

1 we were getting some complaints of odor in the water.
2 So I was actively going out, the Tomoka View system
3 isn't too far from my office, so I would occasionally
4 actively go out and just check to make sure that they
5 were giving them, you know, the chlorine residual that's
6 required.

7 And on this day I did not find any at the --
8 in the distribution, it was at the water plant but out
9 in the distribution system at the end of the system. I
10 could not -- I did not detect any. So, you know, I
11 called the operator, but in the meantime this occurred.
12 And that was where that violation was generated.

13 Q Okay. And let me then take you to the next
14 sets of, or set of violations that you speak about.
15 There was also another incidence in July 2010 for
16 failing to notify your department of unusual color, odor
17 and color in the drinking water; is that correct?

18 A That is correct.

19 Q Okay. And that also resulted in a
20 noncompliance letter by the department?

21 A Yes, it did.

22 Q Okay. And that was for, I think you noted for
23 black and smelly water throughout the distribution
24 system?

25 A Yes. That's the -- that is the wording from

1 complaints that were generated in the Aqua Utilities
2 records during this time frame.

3 Q Okay.

4 A I personally did not get the complaints during
5 this time frame, but I found out about it later from the
6 residents, you know, who asked me about what had
7 happened. That's how I found out about it.

8 Q Okay. And let me ask you this. You would
9 agree, I think, looking at your testimony on page 4,
10 that there have been 12 boiled water notices over the
11 last three years, or since, excuse me, since 2009;
12 correct?

13 A Yes. Basically three years period.

14 Q Okay. And of those, you testified that four
15 were planned; is that correct?

16 A Yes. That is correct.

17 Q Okay. Would you agree that Aqua self-reports
18 with regard to the boiled water notices?

19 A All our water systems self-report, yes.

20 Q Okay. And just to make sure that I
21 understand, you only review the violations for the
22 systems that are within your jurisdiction; correct?

23 A Yes. Volusia County.

24 Q Okay. So you didn't look at any violations
25 that may have occurred in Aqua systems that were outside

1 of Volusia County.

2 A No.

3 MS. CHRISTENSEN: Okay. Thank you for your
4 testimony today.

5 CHAIRMAN GRAHAM: Ms. Bradley?

6 EXAMINATION

7 BY MS. BRADLEY:

8 Q You were talking about the TMH [sic] levels
9 that you found and the rust -- and the lead copper,
10 those violations. Are those violations under the Safe
11 Drinking Water Act?

12 A Yes. Well, first of all, the THM,
13 trihalomethane, that is a primary contaminant, health,
14 you know, significance there. The other is not a
15 violation. It's an action level trigger, the copper and
16 lead copper rule. That was an action level trigger.

17 Q When you say action level treatment --

18 A Trigger.

19 Q Trigger.

20 A Yeah.

21 Q What does that mean?

22 A That means when they test a certain number of
23 homes, according to the lead copper rule, depending on
24 their population, I believe Tomoka View was doing 20
25 samples of different homes. If -- at the 90th

1 percentile value, which is you line them up in order of
2 concentration, highest, you know, I mean, lowest to
3 highest, you take the 90% number. So let's say they
4 took ten samples. The ninth sample, the ninth highest
5 sample, so the one would be the lowest, the ninth
6 sample, whatever that concentration is, that is your
7 90 percentile concentration. That concentration cannot
8 exceed the action levels in the lead copper rule. So
9 the lead, it's a lead copper action level, so the lead
10 is 15 parts per billion and the copper is 1.3 parts per
11 million. Those are the two action levels.

12 So if you have a home, if you have homes and
13 that 9th highest value is, is over the action level of
14 1.3, that's considered a trigger for further monitoring
15 and evaluation. And that's what, in that time frame,
16 they exceeded. And one of the things they had to do was
17 monitor, do some extra monitoring for pH alkalinity in
18 their orthophosphate feed, and that was where the
19 violation occurred because they did not do that second
20 set they were supposed to do.

21 Q And the high levels of lead and copper, that
22 poses a health risk?

23 A There were no high levels of lead. Lead is
24 definitely a health risk. The action level was for
25 copper. I don't have an exact number, but it was over

1 1.3, maybe, you know, between 1.3 and 2.0. It wasn't
2 two times over. But that ninth home came in over it.
3 So at that point it's called, you know, an action level.
4 You could say exceedance, but it's not an MCL. In other
5 words, there's no violation, there's no enforcement
6 action generated at that point. It's just, okay, let's
7 take a look at your system. Let's do some more
8 monitoring. Let's check your, you know, treatment and
9 try to see if, you know, what the issue is there.

10 Q Why do you have trigger points for copper?

11 A The copper -- well, it's called a corrosion
12 control idea. You know, the idea is to control
13 corrosion as best they can. So that is the primary
14 reason.

15 Q And what about the THM, the trihalomethane?

16 A The trihalomethane is a primary contaminant
17 that, when exceeded, is a health, a health concern.

18 Q Are you familiar with what THM can -- what
19 kind of health problems it can cause?

20 A There is a public notice that includes if you
21 drink the water -- I mean, it qualifies. It's not an
22 acute, you know, contaminant. It's something over your
23 lifetime of 60 years there have been some -- I think,
24 you know, the public notice, I don't have it with me
25 right now, but it's, you know, verbiage from the EPA

1 basically that, you know, over a lifetime they have
2 found some studies that it does cause cancer in rats,
3 and they, you know, transferred that to humans.

4 So that is, like I said, it is a health
5 concern and something that we are, you know, we try to
6 take action on pretty quickly when we see that that's
7 over.

8 **MS. BRADLEY:** All right. I don't have any
9 further questions. Thank you.

10 **CHAIRMAN GRAHAM:** YES?

11 **MR. CURTIN:** YES has no questions.

12 **CHAIRMAN GRAHAM:** Mr. Richards?

13 **MR. RICHARDS:** No questions.

14 **CHAIRMAN GRAHAM:** Okay.

15 **MR. MAY:** Chairman Graham, I know that I
16 passed initially, but I think that through the
17 questioning there's a couple of issues that, if I could,
18 I'd like to follow up with this witness just briefly.
19 I, I would, I would submit that she is, we would adopt
20 her as our witness, and so I would, it would be more of
21 a redirect, if I could.

22 **MS. CHRISTENSEN:** I mean, I would object to
23 them adopting her as a witness and doing it as redirect.
24 I mean, it's clearly Staff's witness.

25 **CHAIRMAN GRAHAM:** Mary Anne?

1 **MS. HELTON:** Mr. Chairman, I do think it's
2 appropriate for Mr. May to ask some questions based on
3 the questioning of OPC and the Attorney General's
4 Office.

5 **CHAIRMAN GRAHAM:** Mr. May?

6 **EXAMINATION**

7 **BY MR. MAY:**

8 **Q** Ms. Carrico, I'm Bruce May with, with --
9 representing Aqua. Good morning.

10 **A** Good morning.

11 **Q** Just a couple of questions. With respect to
12 the copper testing, under the Safe Drinking Water Act,
13 isn't that the only test that's done inside a customer's
14 home?

15 **A** Yes. I believe that is the only one that's
16 required to be done inside their home.

17 **Q** You were asked several questions regarding
18 trihalomethanes, or TTHMs. Could you explain to the
19 Commission what causes TTHMs in the water?

20 **A** Well, in -- I'm not an expert at this, but as
21 I understand, the primary cause is the chlorination.
22 When you use a disinfectant, it could be chlorine,
23 there's other actually disinfectants that might cause
24 them also, but in this case of Tomoka View, I can speak
25 on, excuse me, when you chlorinate the water, there are

1 certain by-products formed in certain waters. Not all
2 the time. In fact, in Volusia County some of our
3 systems have no THM problems at all when you chlorinate
4 the water.

5 So it depends on the source water, the well
6 water that's used. So some water does have a, will have
7 a tendency to form these THMs over the limit. And we
8 have found in Volusia County, especially along the
9 coastal area and along the St. Johns River, because that
10 water is, you know, has a higher TO -- total organic
11 carbon in it from, just from its location, close to the
12 ocean. So a lot -- we're finding -- you know, we do
13 find total trihalomethanes, THMs, in most of our coastal
14 drinking waters. That's a common occurrence. When you
15 chlorinate that water, you will get trihalomethanes to a
16 degree, and it seems higher along the coast.

17 Q Thank you, Ms. Carrico. Just one -- well,
18 just a couple of follow-up questions. And I appreciate
19 your time. I know that you've driven a long way.

20 As part of this proceeding, there is a,
21 there's what's known as Aqua's aesthetic water quality
22 improvement initiative, where the company has gone out
23 and identified seven systems that had issues with
24 respect to water quality, has tried to address that.
25 Are you familiar with that program?

1 A Not until I read the testimony. I was not
2 involved in that.

3 Q As part of that initiative to improve the
4 water quality, the Tomoka View system was included in
5 that aesthetic water quality improvement program, and
6 the company installed a chloramine disinfection system.
7 You're aware of that, aren't you?

8 A Yes.

9 Q Okay. Has that resolved the high TTHM issues?

10 A It has brought -- yes. The chloramine system
11 has brought the THM issue into compliance.

12 **MR. MAY:** Thank you, Ms. Carrico. No further
13 questions.

14 **CHAIRMAN GRAHAM:** Ms. Christensen or
15 Ms. Bradley, do you have any follow-up questions?

16 **MS. CHRISTENSEN:** No.

17 **MS. BRADLEY:** No.

18 **CHAIRMAN GRAHAM:** All right.

19 Commissioner Balbis.

20 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
21 I just have a few questions for this witness.

22 What is your opinion of the general condition
23 of Aqua's facilities in Volusia County?

24 **THE WITNESS:** I think they are satisfactory.

25 **COMMISSIONER BALBIS:** And you have worked in

1 Volusia County for the Department of Health for 12 and a
2 half years, I believe?

3 **THE WITNESS:** Ten and a half.

4 **COMMISSIONER BALBIS:** So in that period of
5 time, has the condition of their facilities improved,
6 remained the same, or worsened?

7 **THE WITNESS:** I would say the Tomoka View
8 system has improved since I have inspected it. It
9 was -- since the THM issue has been taken care of. I
10 believe, you know, that I can say it has improved. The
11 other two have stayed the same. There really haven't
12 been -- you know, stayed the same. There hasn't been
13 any changes.

14 **COMMISSIONER BALBIS:** Okay. Thank you.

15 **CHAIRMAN GRAHAM:** Ms. Carrico, I have a
16 question. The boil water notices, how are they handled?
17 What is the policy?

18 **THE WITNESS:** The policy is, and this is for
19 all of the water systems, is when they have a pressure
20 loss in their distribution system or another event where
21 they feel would cause the water to possibly be
22 contaminated. And I should qualify this. It's called a
23 precautionary boil water notice, and it is a guidance
24 document put out by the Department of Health of how to
25 handle these situations, and it's a ten-page document.

1 But basically it is a self-reporting issue
2 that when they have a problem basically in the
3 distribution system or at the water plant and they lose
4 pressure, or they have a problem in treatment that they
5 feel is a health concern, or, you know, that the water
6 is not properly chlorinated, for example, they issue a
7 boil water notice. And they issue it, and then are
8 required to notify our office and notify the customers
9 as soon as possible, but within 24 hours of the
10 occurrence, you know, at maximum.

11 But it's, it is basically a good faith effort
12 that they put these notices out to the people, they
13 notify us, they send us information about what happened,
14 basically report to us that it occurred. And then they
15 handle -- they, of course, have to handle the repairs as
16 soon as they can. They handle the bacterial testing,
17 which is commonly two days of bacteria testing after the
18 event to make sure the water is safe.

19 And then they can rescind the notice, which is
20 what they do on their own, and they just notify us what
21 they did, that the bacteria were good, you know, we get
22 those bacteria sample reports, and they rescind the
23 notice, you know, as, as it happens.

24 **CHAIRMAN GRAHAM:** How are they required to put
25 the notice out there? Do you give them suggestions or

1 is it part of your policy or is it basically however
2 they best see fit?

3 **THE WITNESS:** I forget the wording of the
4 guidance letter. But essentially they, they distribute
5 the notices as best they can to their customers. We
6 expect at a small, small system that they would do a
7 hand delivery and -- to the homes, and that's, it's not
8 written in the guidance exactly what is a small system
9 as opposed to a large system. But obviously if you have
10 10,000 homes affected, you cannot get to every home in
11 time to get that notice out. It's just too hard to
12 expect a utility to do that.

13 So we encourage them to use whatever means
14 they can to best get that notice out. But it's not a
15 rule that you shall, you know, hand-deliver to 10,000
16 homes or something like that. They have to make their
17 best effort. And in a smaller system we would expect
18 delivery to each customer who is affected to get a
19 notice that that happened. And we, yes, we do encourage
20 them, all my, all my systems, try to do phone, you know,
21 a reverse 911. If they can do it, if they have that
22 capability, that would certainly be something -- you
23 know, a good way to reach people.

24 **CHAIRMAN GRAHAM:** Sometimes I --

25 **THE WITNESS:** But it's not required.

1 **CHAIRMAN GRAHAM:** Sometimes I see the media on
2 the newscast, that sort of thing, will say that there's
3 a boil water notice in such and such area. Is that --
4 does your agency contact the media, or is it, once
5 again, it's the utility that contacts the media.

6 **THE WITNESS:** That is the utility's
7 responsibility to contact the media in the event of a,
8 of a large occurrence.

9 You know, at a mobile home park or these small
10 systems such as the Twin Rivers or Tomoka View, but 100,
11 200 people, we don't require, we have not told them go
12 on the news with that notice if it affects, you know,
13 their system. But we do expect a hand delivery.

14 But they certainly could. See, they could do
15 all that. They could go to the TV, radio, they can use
16 whatever methods they wish. And they could do reverse
17 911, or, you know, phone call notification. We
18 certainly would encourage that.

19 **CHAIRMAN GRAHAM:** What are the repercussions
20 of your agency if you don't think they're doing a
21 sufficient job or adequate job of getting notices out?

22 **THE WITNESS:** That would be a noncompliance
23 issue if we became aware of a system that was not
24 putting notices out for events.

25 **CHAIRMAN GRAHAM:** Now are these policies all

1 just Volusia County, or is it all statewide?

2 **THE WITNESS:** Oh, no. That's statewide.

3 **CHAIRMAN GRAHAM:** Okay. Thank you.

4 Commissioner Brown.

5 **COMMISSIONER BROWN:** Thank you.

6 And as a follow-up to Chairman Graham's
7 earlier comments here, questions, after the results come
8 back and it's no longer a precautionary notice, what are
9 the requirements?

10 **THE WITNESS:** The requirements are when they
11 do the two days of samples for total chloroform bacteria
12 and then they rescind the notice, so they send a notice
13 out to the people that, you know, their water has been
14 tested and it is now safe to consume, that basically the
15 notice has been cleared, the water has been cleared and
16 it is safe to use.

17 **COMMISSIONER BROWN:** When the, I guess when
18 the results come back and they are problematic, what
19 would the requirements thereafter be?

20 **THE WITNESS:** Oh, they would continue -- the
21 notice goes, you know, out and says we are testing your
22 water. It doesn't give an end date. So they would
23 continue until they get samples that are satisfactory
24 two days in a row. You know, they'll just continue a
25 sampling, keep the boil water notice active. They would

1 not rescind it until they get their satisfactory
2 bacteria.

3 COMMISSIONER BROWN: So if they continue, the
4 samples continue to be unsatisfactory, then the boil
5 water notices --

6 THE WITNESS: Would continue.

7 COMMISSIONER BROWN: -- would continue. And
8 they, the utility would only be required to keep that
9 notice, that one notice out. They don't have --

10 THE WITNESS: Yes.

11 COMMISSIONER BROWN: Okay.

12 THE WITNESS: Because the notice says, you
13 know, we've had this incident. Do not drink your water
14 until we give you a rescission notice. That's in the
15 boil water notice that they're given. It'll say do not
16 use the water until we give you notification that it's
17 okay to use.

18 COMMISSIONER BROWN: Okay. Thank you.

19 THE WITNESS: Okay.

20 CHAIRMAN GRAHAM: Mr. Jaeger, redirect?

21 MR. JAEGER: Staff has no redirect.

22 CHAIRMAN GRAHAM: Okay. Are we done with this
23 witness?

24 MR. JAEGER: Staff is done with this witness.

25 CHAIRMAN GRAHAM: Ma'am, thank you very much

1 for coming, and for your travel.

2 THE WITNESS: Okay.

3 CHAIRMAN GRAHAM: We don't have any exhibits
4 to put into the record?

5 MR. JAEGER: No exhibits.

6 CHAIRMAN GRAHAM: No?

7 MR. JAEGER: There's no exhibits with
8 Ms. Carrico's testimony.

9 CHAIRMAN GRAHAM: Okay.

10 Ma'am, thank you very much for your travel.

11 THE WITNESS: Thank you.

12 CHAIRMAN GRAHAM: Okay. We are back on our
13 normal schedule. And I believe, Mr. May, you have --

14 MR. JAEGER: I believe Mr. Greenwell just
15 showed up. Is that -- Patty, is that correct? Is he
16 ready to go? I haven't had a chance to speak with him
17 this morning. Could we take just a five-minute break
18 and then we can put Mr. Greenwell on?

19 CHAIRMAN GRAHAM: All right. We'll take a
20 five-minute break and come back at a quarter after.

21 (Recess taken.)

22 Okay. Mr. Jaeger.

23 MR. JAEGER: Yes, Chairman. Staff will call
24 Jeffry S. Greenwell. He has not been sworn.

25 CHAIRMAN GRAHAM: Mr. Greenwell, if I can get

1 you to raise your right hand.

2 **JEFFRY S. GREENWELL**

3 was called as a witness on behalf of the Staff of the
4 Public Service Commission and, having been duly sworn,
5 testified as follows:

6 **EXAMINATION**

7 **BY MR. JAEGER:**

8 Q Mr. Greenwell, could you please state your
9 name and business address for the record?

10 A My name is Jeff Greenwell. I work for the
11 Department of Environmental Protection in the Southwest
12 District in the Temple Terrace office.

13 Q Okay. Have you prefiled direct testimony in
14 this docket consisting of five pages?

15 A Yes, sir.

16 Q Do you have any changes, corrections to your
17 testimony?

18 A No, sir.

19 Q If I were to ask you the same questions today,
20 would your testimony be the same today?

21 A Yes.

22 **MR. JAEGER:** Chairman, may we have
23 Mr. Greenwell's testimony inserted into the record as
24 though read?

25 **CHAIRMAN GRAHAM:** We will insert

1 Mr. Greenwell's testimony into the record as though, as
2 if though read.

3 **BY MR. JAEGER:**

4 Q And, Mr. Greenwell, did you also file Exhibit
5 Nos. JSG-1 through JSG-3?

6 A Yes.

7 Q Do you have any changes or corrections to any
8 of those exhibits?

9 A No.

10 **MR. JAEGER:** Chairman, those exhibits have
11 been identified as 157, 158, and 159 in the
12 Comprehensive Exhibit List. And I will now tender this
13 witness for cross.
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DIRECT TESTIMONY OF JEFFRY S. GREENWELL

1
2 Q. Please state your name and business address.

3 A. Jeffrey S. Greenwell, Florida Department of Environmental Protection (FDEP), 13051
4 North Telecom Parkway, Tampa, Florida 33637.

5 Q. Please provide a brief description of your educational background and experience.

6 A. I received a B.S. in Geology in 1985 and a B.S. in Civil Engineering in 1989 from
7 Louisiana State University. I received my Professional Engineering License in the
8 State of Florida in 1995. From 1989 to 2000, I was a private environmental consultant
9 working on general civil and waste clean-up sites. I have been employed by the FDEP
10 since May 18, 2000, as a Domestic Wastewater Program permitting engineer, Potable
11 Water Program Manager, Domestic Wastewater Program Manager, and Water
12 Facilities Administrator performing permitting, compliance and enforcement activities.

13 Q. What are your general responsibilities at the FDEP?

14 A. I oversee permitting compliance and enforcement activities for Wastewater Treatment
15 Facilities (WWTFs), Water Treatment Plants (WTP), and Underground Injection
16 Control to ensure compliance with the FDEP's rules and the facilities' permits as
17 appropriate.

18 Q. Are you familiar with the Aqua Utilities Florida, Inc. (AUF) water systems in the
19 counties of Desoto (Lake Suzy), Hardee (Peace River Heights), Marion (Ridge
20 Meadows), Pasco (Jasmine Lakes, Palm Terrace, and Zephyr Shores), Polk (Gibsonia
21 Estates, Lake Gibson, Orange Hill/Sugar Creek, Rosalie Oaks, and Village Water), and
22 Sumter (The Woods)?

23 A. Yes, I am familiar with all of those systems with the exception of the Polk County
24 water systems which are regulated by the Polk County Department of Health. FDEP
25 does not regulate the water systems but does continue to regulate the wastewater

1 systems in Polk County.

2 Q. Are these water systems in compliance with all applicable construction permits?

3 A. Yes

4 Q. Have any of these AUF systems been the subject of any FDEP compliance
5 enforcement action within the past three years?

6 A. For Lake Suzy PWS, Ridge Meadows PWS, Palm Terrace PWS, and The Woods
7 PWS, there are no violations or enforcement actions. For Peace River Heights PWS, there
8 were two consent orders with one remaining open and the other being closed. The active
9 Consent Order – OGC# 10-0606-25-PW, issued June 25, 2010, was for Gross Alpha RAA
10 being above MCL (15 pCi/L) for the 2nd, 3rd and 4th quarters of 2009, and for the March and
11 April 2010 Public Notice for Gross Alpha MCL exceedance not being timely issued. This
12 order is attached as Exhibit JSG-1. The other Consent Order - OGC# 10-1956-25, issued
13 February 11, 2011, has been settled and closed. In March 2010, the system exceeded the
14 Bacteriological MCL and a Public Notice was completed with notification being sent to DEP
15 April 6, 2010, and no formal enforcement was needed. For Jasmine Lakes PWS, in May
16 2010, there was a Violation Type 28 (Monthly Average MCL – Total Coliform Rule) which
17 required Tier 2 Public Notice, and the system delivered that notice in June 2010. So, no
18 further action was required for that system. For Zephyr Shores (American Condo) PWS, in
19 August 2010, there was a Violation Type 01 (Single Sample Maximum Contaminant Level)
20 for Secondary Contaminant Iron, which showed results of 0.42 mg/L (MCL 0.3 mg/L). In
21 2008, the Quarterly Arsenic Results for the 4th Quarter were not timely submitted and a
22 Warning Letter was issued March 12, 2009, followed by a Consent Order which was executed
23 in August 2009. This Consent Order is now closed.

24 Q. Other than any violations discussed above, is AUF in compliance with all DEP
25 requirements for their water systems in Desoto, Hardee, Marion, Pasco, and Sumter Counties?

1 A. Yes, I would note that the systems did have multiple Precautionary Boil Water Notices
2 (PBWN). Lake Suzy PWS had two PBWNs in April 2011 associated with a planned outage
3 and a water main break. Peace River Heights PWS had three PBWNs issued, one each in
4 August 2009, December 2010, and Januray 2011. Ridge Meadows PWS had a PBWN issued
5 in December 2009 for a planned outage. Jasmine Lakes PWS had PBWNs issued associated
6 with water main breaks on 2/17/09, 6/24/09, 9/02/09, 10/27/09, 2/24/10, 4/05/10, 4/13/10,
7 5/20/10 (two separate breaks), 6/18/10, 8/25/10, 9/28/10, 10/14/10, 12/15/10, 1/27/10,
8 2/24/10, and 6/2/11. Also, a PBWN associated with Ground Water Rule, Ecoli (+), Well 7C,
9 Tier 1 Public Notice, was issued on 4/16/10. For Palm Terrace PWS, PBWNs associated with
10 water main breaks were issued on 4/16/10, 4/28/10, 9/13/10, 9/15/10, 9/24/10, 2/1/11, and
11 8/10/11. Also, PBWNs were issued on 11/17/10 for a planned outage, and on 2/21/10 and
12 2/28/11 for a leaking valve. For Zephyr Shores (American Condo) PWS, a PBWN was issued
13 on 3/16/09 and 11/05/09 for water main breaks. Also, PBWNs were issued 8/24/10 and
14 3/27/11 for a Well No. 2 pump and motor replacement, and for a Well No. 1 pump, motor, and
15 check valve replacement, respectively. For The Woods PWS, PBWNs were issued on
16 10/11/09, 10/06/10, and 11/11/10 for well control malfunctions, and another PBWN was
17 issued on 3/25/10 for a loss of power and generator malfunction.

18 Q. Is the overall operation and maintenance of these water treatment plants and
19 distribution facilities satisfactory?

20 A. To the best of my knowledge the overall operation and maintenance of these systems
21 meets the minimum requirements of the FDEP.

22 Q. Are you familiar with the Aqua Utilities Florida, Inc. (AUF) wastewater systems in the
23 counties of Desoto (Lake Suzy), Hardee (Peace River Heights), Pasco (Jasmine Lakes, Palm
24 Terrace, and Zephyr Shores), Polk (Breeze Hill, Lake Gibson, Rosalie Oaks, and Village
25 Water), and Sumter (The Woods)?

A. Yes, I am familiar with all of those systems.

1 Q. Are these systems in compliance with all applicable construction and operating
2 permits?

3 A. Lake Suzy WWTF and The Woods WWTF are in compliance. Peace River Heights
4 WWTF, Jasmine Lakes WWTF, and Palm Terrace WWTF are out of compliance for
5 maintenance issues. Jasmine Lakes WWTF and Palm Terrace WWTF each received Warning
6 Letters on June 23, 2011, which remain open at this time. Both facilities have taken corrective
7 action and are substantially in compliance. These warning letters are attached as Exhibit JSG-
8 2.

9 For Zephyr Shores and Lake Gibson, the wastewater treatment facilities (WWTF)
10 serving these areas were taken off line a number of years ago. AUF maintains the sanitary
11 sewer systems and no overflows were reported in the past year.

12 The Breeze Hill WWTF had what was considered a minor out of compliance.

13 The Rosalie Oaks WWTF was out of compliance. Monitoring reports reviewed from
14 February 2010 through July 2011, showed five exceedances of permit limit for total plant flow
15 reported as a three-month rolling daily average. Village Water WWTF was significantly out
16 of compliance and has been unable to address the long-term disposal solution for the ponds
17 and the inadequate maintenance of the ponds.

18 Q. Have any of these AUF systems been the subject of any FDEP compliance
19 enforcement action within the past three years?

20 A. The Lake Suzy WWTF, Peace River Heights WWTF, The Woods WWTF, Palm
21 Terrace WWTF, Zephyr Shores WWTF, Breeze Hill WWTF, Lake Gibson WWTF, and The
22 Woods have had no compliance enforcement action within the past three years.

23 For Jasmine Lakes WWTF, a consent order was executed on September 10, 2010 for
24 maintenance issues and groundwater exceedances. The fine of \$23,000.00 was paid and the
25 case was closed.

1 For Rosalie Oaks WWTF, a consent order was executed on August 19, 2010 for
2 operating the facility without a permit. The fine of \$1,750.00 was paid and the case was
3 closed.

4 For Village Water WWTF, a consent order was executed on August 21, 2007, for
5 operating the facility without a permit and failure to maintain the ponds, including proper
6 access control. The order has been amended multiple times and remains open. AUF is not in
7 compliance with the terms of the order. The original Consent Order and the Second and Third
8 Amendment are attached as Exhibit JSG-3.

9 Q. Other than any violations discussed above, is AUF in compliance with all FDEP
10 requirements for their wastewater systems in Desoto, Hardee, Pasco, Polk, and Sumter
11 Counties.

12 A. To the best of my knowledge the AUF facilities referenced above are substantially in
13 compliance with the FDEP's minimum requirements.

14 Q. Is the overall operation and maintenance of these wastewater treatment plants and
15 collection facilities satisfactory?

16 A. To the best of my knowledge the overall operation and maintenance of these systems
17 meets the minimum requirements of the FDEP.

18 Q. Do you have anything further to add?

19 A. No, I do not.
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1 **CHAIRMAN GRAHAM:** Okay. Mr. May.

2 **MR. MAY:** Mr. Chairman, could, could I pass
3 and, and follow up if there's additional information
4 that comes out, as we did in --

5 **CHAIRMAN GRAHAM:** You know, I'm going off this
6 script that we have up here, and I don't know if this
7 was -- the order --

8 **MS. HELTON:** Mr. Chairman?

9 **CHAIRMAN GRAHAM:** Yes.

10 **MS. HELTON:** I have to confess that I did not
11 review the script before you received it. Had I
12 reviewed the script before you received it, my
13 recommendation would have been to allow the Intervenors
14 to cross-examine the witness first and then for Aqua to
15 cross-examine. I think that's appropriate. Aqua has
16 the burden of proof here, and I think Aqua's due process
17 rights provide that they should be able to cross-examine
18 the witness after the Intervenors.

19 **CHAIRMAN GRAHAM:** Well, I guess the only
20 question I have is this the script that was put forth by
21 the Prehearing Officer, or is this something that's put
22 forth by Staff?

23 **MS. HELTON:** That is something that is put
24 forth -- provided to you by Staff.

25 **CHAIRMAN GRAHAM:** Okay. I didn't want to

1 second-guess the Prehearing Officer, especially this
2 current Prehearing Officer.

3 (Laughter.)

4 That being said, we'll start off with OPC.

5 **EXAMINATION**

6 **BY MS. CHRISTENSEN:**

7 Q Good morning, Mr. Greenwell.

8 A Good morning.

9 Q Okay. Now you filed testimony on Aqua -- or
10 testimony on October 6th, 2011, that addresses Aqua's
11 systems for several counties; correct?

12 A Yes, ma'am.

13 Q And these systems are Lake Suzy, Peace River
14 Heights, Ridge Meadows, Jasmine Lakes, Palm Terrace,
15 Zephyr Shores, Gibsonia Estates, Lake Gibson, Orange
16 Hill, Sugar Creek, Rosalie Oaks, Village Water, and The
17 Woods; correct?

18 A The three Polk County potable water systems
19 are delegated to Polk County DOH and are not under my
20 jurisdiction directly.

21 Q Okay. Which systems are those?

22 A Those would be Gibsonia Estates, Lake Gibson,
23 Orange Hill, Sugar Creek, Rosalie Oaks, and Village
24 Water, if they have potable water systems. I'm not sure
25 they all do.

1 Q Okay. So you only address those systems
2 regarding wastewater systems; correct?

3 A Yes, ma'am.

4 Q Okay. All right. In your testimony, you
5 state that the overall operation and maintenance of
6 these systems for the water treatment plants and
7 distribution facilities meets the minimum filing
8 requirements of the Department of Environmental
9 Protection; correct?

10 A That's correct.

11 Q Okay. Now you would agree that over the last
12 three years some of these systems have had DEP
13 enforcement actions against them; correct?

14 A Yes, ma'am. Three, I believe.

15 Q Okay. Well, let's talk about the individual
16 systems then.

17 A Okay.

18 Q Peace River's. Peace River has had two
19 consent orders for water, for their water treatment
20 system; is that correct?

21 A Yes, ma'am.

22 Q Okay. And one of those consent orders was
23 open at the time you filed testimony; correct?

24 A Correct. One remains open.

25 Q Okay. Can you tell us what that -- it remains

1 open today?

2 A Yes. They're in the process of implementing
3 the corrective action for that facility.

4 Q Okay. And can you tell us what that consent
5 order was opened for?

6 A It was to address radiological exceedances of
7 the MCL, maximum contaminant level.

8 Q Okay. And how many violations did that cover?
9 Or is that an ongoing continuing violation?

10 A It's not really an ongoing continuing
11 violation. At this time they've actually come back into
12 compliance without implementing the treatment system.
13 But they basically exceeded multiple quarters, and it's
14 a running quarterly average over an annual period.

15 Q Okay. Now those quarters that were violated
16 were the second, third, and fourth quarters of 2009; is
17 that correct?

18 A That's correct.

19 Q And that also would cover MCL violations for
20 March and April of 2010; is that correct?

21 A Yes. Yes.

22 Q Okay. Other than those quarterly violations,
23 were there any additional ones in 2010 that you can
24 recall?

25 A Not that I can recall.

1 Q Okay. And any continuing violations in 2011?

2 A I do not believe there are any present
3 violations for that constituent right now.

4 Q Okay. Now let's talk about Jasmine Lakes.
5 Jasmine Lakes also had a violation in May 2010 that
6 required public notice; is that correct?

7 A That's correct. A Tier 2 public notice.

8 Q Okay. And can you explain what is a Tier 2
9 public notice?

10 A A public notice that has to be issued within
11 30 days. The total -- in this case it was a total
12 coliform exceedance.

13 Q Okay. And --

14 A Which is not an acute constituent. Tier 2,
15 Tier 2 public notices address MCLs that are not acute.

16 Q Okay. And when you mean acute, you mean cause
17 acute public health concerns?

18 A Yes, ma'am. Acute constituents would be
19 nitrates, particularly with infants.

20 Q Okay.

21 A Fecal or E.coli.

22 Q Okay. Those are the acute ones. And then the
23 Tier 2 contaminants --

24 A Are the chronic constituents. Ones that, as
25 the previous witness identified, take a lifetime of

1 exposure to be impacted by.

2 Q Okay. Okay. So multiple exposures over time
3 will cause health concerns; is that correct?

4 A Yes, ma'am.

5 Q Okay. Now you also discuss Zephyr Shores in
6 your testimony?

7 A Yes.

8 Q And you testified that Zephyr Shores has an
9 MCL violation in August of 2010; is that correct?

10 A For a secondary constituent, yes.

11 Q Okay. And they had a consent order executed
12 in August of 2009 for not timely submitting its
13 quarterly arsenic reports; is that correct?

14 A That's correct. Yes.

15 Q And you would also agree that for the systems
16 that you monitor, there have been multiple precautionary
17 boiled water notices for these systems?

18 A Yes.

19 Q And you would agree that not all of the
20 precautionary notices were for planned outages; is that
21 right?

22 A Yes. Yes. Many of them were water main
23 breaks. That's correct.

24 Q Okay. And I think, based on your testimony,
25 if I'm correct, there were 38 nonplanned precautionary

1 boiled water notices for the last three years?

2 A I didn't -- I looked at them on a system
3 basis, but I didn't -- but you may be correct.

4 Q Okay.

5 A If it's in the testimony, I pulled it out of
6 the database and it should be correct.

7 Q Okay. And Jasmine Lakes had about 16 boiled
8 water notices issued due to main breaks over the last
9 three years; would that be correct?

10 A That is correct, I believe, yes. 15 or 16.

11 Q Okay. Well, let's talk -- you also monitor
12 wastewater systems; is that correct?

13 A Yes.

14 Q Okay. And the wastewater systems that you
15 addressed in your testimony were the Lake Suzy, Peace
16 River Heights, Jasmine Lakes, Palm Terrace, Zephyr
17 Shores, Breeze Hill, Lake Gibson, Rosalie Oaks, Village
18 Water, and The Woods; is that correct?

19 A That's correct.

20 Q Okay. Are there any other additional systems
21 that you monitor for Aqua?

22 A Yes. I believe Fruitville. Now I can't --
23 going by memory, this would be pretty tough. I do
24 believe there's a couple more, but Fruitville is one I'm
25 definitely aware of. It's a large system.

1 Q Okay. And what county would that be in?

2 A That is in Sarasota County.

3 Q Okay. So that would be under their
4 jurisdiction?

5 A I believe so, yes.

6 Q Okay. So these would be the ones that it
7 appears that are under the PSC jurisdiction; correct?

8 A That's correct.

9 Q Okay. In your testimony you stated that the
10 overall operation and maintenance of the Wastewater
11 treatment plants and distribution facilities meet the
12 minimum filing requirements of the Department of
13 Environmental Protection; correct?

14 A Correct. With the exceptions of the things
15 that I identified in my testimony.

16 Q Okay. Well, let's talk about some of the
17 things that you identified in your testimony.

18 A Okay.

19 Q All right. Now you would agree that some of
20 those systems that you're monitoring have had
21 enforcement actions against them in the last three
22 years; correct?

23 A Yes, ma'am.

24 Q Okay. Jasmine Lakes has had a consent order
25 with penalties in September of 2010; correct?

1 A Jasmine Lakes in September of 2010. I thought
2 the Jasmine Lakes one was not -- was it in 2010? I
3 apologize.

4 Q I'm looking at page 4 of your testimony.

5 A Let me turn to page 4 real quick.

6 Q Lines 23 through 25.

7 A Yes. You're correct.

8 Q Okay. And it says those were for maintenance
9 issue and groundwater exceedances; is that correct?

10 A Yes.

11 Q Can you explain to us what those maintenance
12 issues were?

13 A I believe that they had excessive solids in
14 the plant that were entering their ponds at their
15 disposal system.

16 Q Okay. And the groundwater exceedances, would
17 that be related to the ponds as well?

18 A Yes.

19 Q Okay. Now let's look at Palm Terrace.

20 A Okay.

21 Q Palm Terrace also received a warning letter
22 because it was out of compliance with construction in
23 operating permits; is that correct?

24 A They received that this year, earlier this
25 year. That's correct.

1 Q Does that warning letter still remain open?

2 A That warning letter remains open.

3 Q Is that warning letter going to result in a
4 consent order?

5 A It's unclear at this time whether it will
6 result in a consent order or not.

7 Q Okay. What --

8 A They have returned to compliance.

9 Q Okay.

10 A With the, with the findings of the warning
11 letter.

12 Q Okay. And so at this point you would continue
13 to monitor to make sure they maintain compliance; is
14 that where you would be at this stage?

15 A Well, we continue to do that. But the actual
16 disposition of the enforcement case remains open. We
17 haven't decided whether to take -- whether to attempt to
18 enter into a consent order with Aqua or not.

19 Q Okay. Do you know when you would make that
20 determination?

21 A In accordance with the wastewater enforcement
22 guidance document, we should be doing it in the next 30
23 days or so.

24 Q Okay. Let's talk about one of the other
25 systems that you also review, and that's Rosalie Oaks.

1 The wastewater facility had a consent order with a fine
2 in August of 2010; is that correct?

3 A Rosalie Oaks. Yes. There was a -- yes, for
4 operating without a permit.

5 Q Okay. And how long were they operating
6 without the permit?

7 A I, I don't know that off the top of my head.

8 Q Let me direct you to line 14 and 15 on page 4.

9 A Okay.

10 Q And there you testify that the monitoring
11 reports reviewed from February 2010 through July 2011
12 show five exceedances of the permit limit for total
13 plant flow reported as a three-month rolling average; is
14 that correct?

15 A Yes, ma'am.

16 Q Is that a separate compliance issue with
17 Rosalie Oaks?

18 A We, we typically do not take enforcement for
19 flow exceedances, if the utility moves in a timely
20 manner to correct the associated problem with that and
21 there are no violations of water quality standards
22 associated with those exceedances.

23 Q Okay.

24 A In this case, they did, I believe they did
25 some infiltration and inflow work and reduced their

1 flows substantially.

2 Q Okay.

3 A Back within compliance within the permitted
4 capacity of the plant.

5 Q Okay. And so would that have -- that would
6 not have resulted in -- would that have resulted in five
7 violations or --

8 A Each month was a violation, yes.

9 Q Okay.

10 A Each month that they exceeded the three-month
11 average. We use three-month averages for parks that are
12 seasonal. So parks that see a lot of winter, wintering
13 customers, I guess, they have a very, a peak flow from,
14 say, late October through early March.

15 Q Okay. And that would have been five months of
16 exceedances, if I'm --

17 A That was five months of exceedances. Yes.

18 Q Okay. Now let's discuss Village Water
19 wastewater treatment facility. That's also been the
20 subject of an ongoing consent order since August 2007;
21 is that correct?

22 A That's correct.

23 Q Okay. And you have said that this order has
24 been amended multiple times and remains open; is that
25 correct?

1 A That's correct.

2 Q And is that order still open today?

3 A Yes.

4 Q Okay. And that consent order was originally
5 issued for operating the facility without a permit and a
6 failure to maintain ponds and including proper access
7 and control; is that correct?

8 A Yes.

9 Q And those conditions still exist today?

10 A They have a permit that they're operating
11 under. They have rectified the access control issue,
12 but they continue to have a disposal issue.

13 Q Okay. So essentially they still remain out of
14 compliance with the pond issues that remain; correct?

15 A Yes. The consent order gives them a certain
16 amount of relief with regard to that, but they are
17 attempting to find a corrective action to address the
18 pond disposal issue.

19 Q Okay. Now did you review any system, any Aqua
20 systems outside your area of jurisdiction?

21 A No, ma'am.

22 **MS. CHRISTENSEN:** Okay. That's all the
23 questions I have.

24 **CHAIRMAN GRAHAM:** Ms. Bradley.

25 **MS. BRADLEY:** No questions.

1 CHAIRMAN GRAHAM: YES.

2 MR. CURTIN: No questions.

3 CHAIRMAN GRAHAM: Mr. Richards.

4 MR. RICHARDS: Yes, I have a few questions.

5 CHAIRMAN GRAHAM: Sure.

6 EXAMINATION

7 BY MR. RICHARDS:

8 Q Good morning.

9 A Good morning, Joe.

10 Q I wanted to ask you about the Palm Terrace
11 system, wastewater treatment plant. You issued a
12 warning letter on June 23rd of this year. And on page 2
13 of that letter, on paragraph 5, you mentioned a
14 discharge from a broken pipe, 2,000 gallons into a
15 stormwater pond. Would that be considered a violation
16 of DEP regulations?

17 A Yes. Yes. That's a discharge -- an
18 unauthorized discharge.

19 Q Also, the pipe that broke, it was an above
20 ground pipe, was not secured from damage. Was that a
21 violation also?

22 A That's, that's a tougher question. I mean, I
23 don't, I don't know the answer to that, whether that
24 would be a violation of our rules. It certainly was
25 constructed in a manner that did not seem consistent

1 with sound engineering practices.

2 Q Thank you. Also, at that same system, they
3 have retention ponds for their effluent, and they're
4 required to have an emergency overflow; is that correct?

5 A That's correct. They're required, under
6 Chapter 610, to have an -- 62-610 to have an emergency
7 discharge from any perc pond. That is in an effort to
8 have a controlled release in the event you were to have
9 a release in an emergency and prevent catastrophic
10 failure of that system, and potentially cap a loss to
11 the utility as well as impacts to any surrounding
12 residences.

13 Q Regarding that overflow pipe, would it be
14 consistent with DEP rules if that overflow pipe had a
15 cap on it that had to be manually removed?

16 A I think that's a legal question that I'm
17 really not in a position to answer.

18 Q Okay. Okay. I want to ask you about your
19 general opinion of the Palm Terrace wastewater treatment
20 plant. Could you give us a general opinion about that
21 plant?

22 A Well, it's, I believe it's about a
23 130,000-gallon-a-day wastewater plant presently doing
24 about 90,000 gallons a day. It appears to have had some
25 solids issues in the past. It looks like they're moving

1 towards amending those. That's why I indicated it was
2 back in compliance. Beyond that, that's the extent of
3 my knowledge of it.

4 Q Is it true in the past that there have been
5 some of these smaller wastewater treatment plants where
6 the, the long-term solution would be to take them off
7 line and deliver the waste? Have -- are you aware of
8 any private utilities in Pasco County where that is the
9 case?

10 A Well, yeah. There's plenty of them. There is
11 no question about that. It's always -- I mean, this is
12 a larger plant. I wouldn't necessarily consider this a
13 small plant. But particularly when you get into the
14 very small plants, regional control has, has clear
15 advantages.

16 Q Are you aware of any discussions by your
17 inspectors or anyone on your staff that the long-term
18 solution for the Palm Terrace plant would be to take it
19 off line and send it to a regional plant?

20 A No, I'm not aware of those discussions.

21 Q Okay.

22 A I had heard that you had approached them to
23 try to purchase it, or FGUA did, I guess. Is it FGUA
24 that approached them?

25 Q Yes. Let me, let me ask you about boil water

1 notices. That comes under your jurisdiction as well?

2 A Yes, sir.

3 Q What are your general requirements for
4 delivery of the boil water notice to the customers?

5 A Boil water notices are -- the delivery is to
6 be done and consistent with the Department of Health's
7 guidance document, which is incorporated by rule within
8 the drinking water, Chapter 62-555. And it should, it
9 should, the delivery should, you know, be consistent
10 with the amount of connections affected.

11 So as an example, if you have ten service
12 connections affected, you should probably hand-deliver
13 those. If you have 10,000 service connections affected,
14 you probably need to do a reverse 911 or a radio
15 announcement. All of these things when you get these
16 large numbers have down sides to them. But it is a
17 precautionary boil water notice.

18 Q When you say hand delivery, is there any
19 guidance documents from the department as to how hand
20 delivery should be affected?

21 A Beyond the Department of Health's guidance,
22 no, I'm not aware of any, no.

23 MR. RICHARDS: Okay. Thank you. I have no
24 further questions.

25 CHAIRMAN GRAHAM: Thank you.

1 Mr. May.

2 MR. MAY: Just a couple follow-up questions,
3 Mr. Chairman.

4 EXAMINATION

5 BY MR. MAY:

6 Q Mr. Greenwell, I'm Bruce May with the Holland
7 & Knight law firm. We represent Aqua. Good morning.

8 A Good morning.

9 Q Excuse me. I just wanted to refer you back to
10 the discussion regarding the Rosalie Oaks wastewater
11 treatment facility. You had indicated that there was a
12 consent order executed in August of 2010 for the
13 facility operating without a permit. That consent order
14 has been closed, has it not?

15 A Yes, sir.

16 Q Okay. And prior to the permit expiration, did
17 Aqua submit the application to renew the permit?

18 A I believe so, but it wasn't made complete
19 prior to the expiration of the permit.

20 Q Certainly. And has that permit now been
21 issued?

22 A Yes.

23 MR. MAY: Okay. I think that's all the
24 questions I had. Thank you, Mr. Greenwell.

25 CHAIRMAN GRAHAM: Commissioner Brisé -- I'm

1 sorry. Commissioner Balbis.

2 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

3 And thank you for your testimony today. And I
4 didn't thank the other witness, but I just want to thank
5 both of you for the work that you do and that you are
6 the boots on the ground looking out for the public's
7 health and best interest. So I appreciate the work that
8 you do, and I think it is underappreciated.

9 My questions are the warning letters,
10 concerning the warning letters in your Exhibit JSG-2
11 concerning Jasmine Lakes and Palm Terrace Gardens.

12 **THE WITNESS:** Okay.

13 **COMMISSIONER BALBIS:** And you indicated in
14 your testimony today that -- we'll start with Jasmine
15 Lakes had a solids problem with the wastewater plant,
16 and that there was an inspection on February 15th where
17 there was what appeared to be a solids issue identified,
18 and then in May of 2011, again, further indications of a
19 solids problem.

20 Did you notify the operators at the time of
21 your February -- or the department's February 15th
22 meeting that they had a solids problem?

23 **THE WITNESS:** It would be standard procedure
24 to do that, yes. But I wasn't the inspector, so I can't
25 verify that.

1 **COMMISSIONER BALBIS:** Okay.

2 **THE WITNESS:** But it, but it's standard to
3 usually walk through the facility with the operator and
4 let them know what's happening. Yes.

5 **COMMISSIONER BALBIS:** And, but again, on
6 May 26th there was another inspection which there were
7 additional indications of a solids problem.

8 **THE WITNESS:** That's correct.

9 **COMMISSIONER BALBIS:** And then you indicated
10 that is now in compliance. So they have corrected the
11 solids problem to your knowledge?

12 **THE WITNESS:** As of the last inspection they
13 had corrected the solids problem.

14 **COMMISSIONER BALBIS:** When -- prior to the
15 February 15th inspection, when was their last
16 inspection? So how long could that solids problem have
17 been occurring?

18 **THE WITNESS:** Well, let me see. I might be
19 able to find that. We try to inspect all facilities
20 annually, and we do follow-ups for any facilities
21 typically that are significantly out of compliance.

22 In the case of Palm Terrace, we're saying the
23 previous one was done in February of 2010.

24 **COMMISSIONER BALBIS:** And were there
25 indications of a solids problem at that time?

1 **THE WITNESS:** I don't have that information in
2 front of me.

3 **COMMISSIONER BALBIS:** Okay. Was the issue --
4 was the solids problem caused by operator error or lack
5 of maintenance on maybe the RAS pumps? In your opinion,
6 what do you think was the cause of it?

7 **THE WITNESS:** Well, I didn't see the site, but
8 solids issues can be a myriad of things individually or
9 working in combination with each other. I mean, they
10 can be a function of not taking enough return activated
11 sludge back. They can be a function of not wasting
12 enough. It can be a sludge age issue. You know, we've
13 seen it at places where you'll have a holiday break and
14 they'll go in and dewax all the floors. The next thing
15 you know you've sort of, you've turned the plant upside
16 down, you've killed the plant, and then you end up with
17 a bulking problem, a solids problem.

18 So it could be a combination of those things.
19 It could be any number of things. It could be old
20 sludge. It's really hard to know without having looked
21 at the sludge under a microscope to have a -- and
22 looking at the coloration of the sludge or the return
23 activated sludge to know what exactly that was. But
24 typically when we find solids problems, we identify them
25 by what we would call a very high sludge blanket in the

1 clarifier.

2 So, for example, if a clarifier is 10 feet
3 deep, you would expect the sludge blanket to be about
4 2.5 feet deep, not much deeper than that. Everything
5 should settle down. If you go out and you see a
6 clarifier that's 10 feet deep and the sludge blanket is
7 at 8 feet, you know, you know you've got a problem
8 there.

9 Another easy way to identify a solids problem
10 is when you find solids in the chlorine contact chamber
11 or, worse, you find them in the disposal pond, which
12 means they're not only getting past the clarifier,
13 they're getting past the disinfection unit, the chlorine
14 contact unit, but they're also getting all the way into
15 the disposal unit.

16 **COMMISSIONER BALBIS:** And at both of those
17 plants you found solids in the disposal ponds; correct?

18 **THE WITNESS:** That's correct.

19 **COMMISSIONER BALBIS:** Is it common for
20 wastewater facilities under your jurisdiction to have
21 this solids problem?

22 **THE WITNESS:** It's not uncommon. It's a
23 tricky thing. I mean, you know, they're big, giant
24 biological experiments. And by not wasting, by not
25 removing activated sludge, there's, there's clearly

1 economic benefits to that. So you're playing a game
2 basically trying to manage that sludge age and minimize
3 your wasting in an effort to minimize your cost.

4 **COMMISSIONER BALBIS:** By minimizing your
5 sludge disposal costs; correct?

6 **THE WITNESS:** That's correct. And your
7 overall operational costs.

8 **COMMISSIONER BALBIS:** In both of these
9 wastewater plants, Jasmine Lakes and Palm Terrace
10 Gardens, the warning letter indicates that in one the
11 flow chart recorder stopped for five days, indicating
12 there was no record of what flow. And then in the other
13 it appears that the, the disk was not changed for 13
14 days.

15 **THE WITNESS:** That's correct.

16 **COMMISSIONER BALBIS:** Okay. I have nothing
17 further.

18 **CHAIRMAN GRAHAM:** Commissioner Brown.

19 **COMMISSIONER BROWN:** Thank you.

20 And good morning, Mr. Greenwell. I hope your
21 drive was okay from Tampa.

22 I have a question regarding some concerns that
23 customers raised during the New Port Richey service
24 hearing with regard to Jasmine Lakes. Multiple
25 customers testified to red water occurring around

1 September 2011 in the Jasmine Lakes territory area. Was
2 DEP contacted about a potential precautionary boil water
3 matter issue?

4 **THE WITNESS:** Jasmine Lakes on September of
5 2011, this, this past year?

6 **COMMISSIONER BROWN:** Uh-huh.

7 **THE WITNESS:** I am, I'm not aware of it, but
8 it would not -- typically they would let us know. I
9 mean, we've not had any concerns with them issuing
10 precautionary boil water notices.

11 **COMMISSIONER BROWN:** Okay. Thank you.

12 **CHAIRMAN GRAHAM:** Mr. Greenwell, I have a
13 question or two. Who sets the standard for potable
14 water?

15 **THE WITNESS:** Well, it's, I guess it's sort of
16 a two-tier system. The federal government sets primary
17 drinking water standards. The state has historically
18 adopted those standards.

19 In addition, the state has made secondary
20 drinking water standards enforceable in the State of
21 Florida, where they are not enforceable at the federal
22 level.

23 **CHAIRMAN GRAHAM:** Now are the terms "potable
24 water" and "drinking water" synonymous?

25 **THE WITNESS:** Yes. I mean largely, yes.

1 **CHAIRMAN GRAHAM:** Have had you complaints in,
2 not specific to Aqua, but in general, any water
3 complaints that were, they were still within compliance
4 of the potable water standard but they still got quality
5 complaints about them?

6 **THE WITNESS:** Yes.

7 **CHAIRMAN GRAHAM:** Has there been any talk
8 about setting a more restrictive standard?

9 **THE WITNESS:** For?

10 **CHAIRMAN GRAHAM:** Potable water.

11 **THE WITNESS:** I'm really -- that's policy
12 that's beyond the scope -- I'm not aware of anything,
13 sir, actually.

14 **CHAIRMAN GRAHAM:** Okay. That's all the
15 questions I had.

16 Mr. Jaeger.

17 **MR. JAEGER:** Staff has no redirect.

18 **CHAIRMAN GRAHAM:** Okay. Any exhibits?

19 **MR. JAEGER:** We had three exhibits, 157, 158,
20 and 159. We would move those into the record.

21 **CHAIRMAN GRAHAM:** 157, 158, 159, we'll move
22 those into the record.

23 (Exhibits 157, 158, and 159 admitted into the
24 record.)

25 Any other exhibits?

1 **MR. JAEGER:** None other.

2 **CHAIRMAN GRAHAM:** Are we done with
3 Mr. Greenwell?

4 **MR. JAEGER:** Staff can excuse Mr. Greenwell.

5 **CHAIRMAN GRAHAM:** Sir, thank you very much for
6 coming down.

7 **THE WITNESS:** Thank you.

8 **CHAIRMAN GRAHAM:** Okay. Is that all we had
9 for out-of-order people?

10 **MR. JAEGER:** That's all the DEP out-of-order
11 witnesses we had. I think we're back to going to
12 Mr. Rendell.

13 **CHAIRMAN GRAHAM:** Mr. May.

14 **MR. MAY:** Mr. Chairman, there's one nuance
15 with this witness. He has a confidential exhibit and,
16 in accordance with the Commission's practice, we have
17 the unredacted versions of those exhibits. And I'm
18 prepared to give them to the appropriate person and let
19 you all take a look at it.

20 **CHAIRMAN GRAHAM:** Sure.

21 **MR. MAY:** And the exhibit that's being passed
22 out now, the confidential, is in a red binder. And it's
23 confidential Exhibit TR-3, which is Exhibit No. 70 in
24 the master exhibit list.

25 **CHAIRMAN GRAHAM:** You said it's number which

1 one?

2 MR. MAY: 70.

3 CHAIRMAN GRAHAM: Okay. Thank you.

4 MR. MAY: Mr. Chairman, with your permission,
5 Aqua would call its direct witness, Mr. Troy Rendell.

6 TROY RENDELL

7 was called as a witness on behalf of Aqua Utilities
8 Florida and, having been duly sworn, testified as
9 follows:

10 EXAMINATION

11 BY MR. MAY:

12 Q Mr. Rendell, have you previously been sworn in
13 this proceeding?

14 A I have.

15 Q And would you please state your name and
16 business address for the record.

17 A My name is Troy Rendell. My business address
18 is 2228 Capital Circle Northeast, Suite 2A, Tallahassee,
19 Florida 32308.

20 Q Thank you. Have you prepared and caused to be
21 filed in this proceeding 30 pages of prefiled testimony?

22 A I have.

23 Q Do you have that prefiled direct testimony
24 before you today?

25 A I do.

1 Q Do you have any corrections or revisions to
2 make to your testimony?

3 A I do not.

4 Q If I were to ask you the questions that are
5 contained in your prefiled direct testimony today, would
6 your answers be the same?

7 A Yes, they would.

8 **MR. MAY:** Mr. Chairman, we'd ask that the
9 prefiled direct testimony of Mr. Rendell be entered into
10 the record as though read.

11 **CHAIRMAN GRAHAM:** We will enter Mr. Rendell's
12 testimony into the record as if it were read.

13 **BY CHAIRMAN GRAHAM:**

14 Q And, Mr. Rendell, have you attached any
15 exhibits to your prefiled testimony?

16 A Yes. I have Exhibits 1 through 3.

17 Q And Exhibit TR-3 is the confidential exhibit?

18 A Correct.

19 Q Do you have any corrections or revisions to
20 make to those exhibits?

21 A No, I do not.

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AQUA UTILITIES FLORIDA, INC.
DIRECT TESTIMONY
OF
WILLIAM TROY RENDELL
Docket No. 100330-WS

Q. Please state your name and business address.

A. My name is William Troy Rendell. My business address is 2228 Capital Circle NE, Suite 2A, Tallahassee, Florida, 32308.

Q. By whom are you employed and in what capacity?

A. I am Manager of Rates for Aqua Utilities Florida, Inc. ("AUF" or "Company").

Q. What are your primary duties as Manager of Rates?

A. I am responsible for the coordination of all rate and regulatory matters before the Florida Public Service Commission ("Commission"). This includes, but is not limited to, rate cases, index filings, service availability, tariffs, assistance with complaints, and various regulatory affairs.

Q. Please describe your education and business experience.

A. I graduated from Gulf Coast Community College in 1985 with an Associate of Arts Degree in Business Administration. In 1987, I graduated from the Florida State University with a Bachelor of Science Degree in Finance. After graduation, I was employed as a comptroller for Port Panama City Marina, Inc. In November 1987, I

1 began working for the Commission as a Regulatory Analyst I in the Bureau of Gas
2 Regulation, Division of Electric and Gas. In January 1991, I joined the Division of
3 Auditing and Financial Analysis in the Bureau of Accounting. In October 1991, I
4 transferred to the Division of Water and Wastewater as a Regulatory Analyst IV in
5 the Bureau of Industry Structure and Policy Development. From March 1994
6 through April 1996, I held the position of Regulatory Analyst Supervisor within the
7 Bureau of Economic Regulation in the Division of Water and Wastewater. From
8 April 1996 through January 2008, I held the position of Public Utilities Supervisor
9 within the Bureau of Rate Filings, Surveillance, Finance and Tax in the Division of
10 Economic Regulation. In January 2008, I accepted my current position as Manager
11 of Rates with AUF.

12
13 **Q. Have you previously appeared and presented testimony before state**
14 **regulatory bodies?**

15 **A.** Yes. I testified before the Commission in Docket No. 930880-WS, Investigation
16 into the Appropriate Rate Structure for Southern States Utilities, Inc. for all
17 regulated systems. I also testified in Docket No. 020010-WS, Application for Staff-
18 Assisted Rate Case in Highlands County by the Woodlands of Lake Placid, L.P.
19 Further, I filed direct testimony in: Docket No. 980992-WS (complaint by D.R.
20 Horton Customer Homes, Inc., against Southlake Utilities, Inc.); Docket No.
21 960329-WS (Gulf Utility Company rate case); and, Docket No. 880002-EG
22 (Energy Conservation Cost Recovery docket).

1 **Q. What are the purposes of your testimony?**

2 A. My testimony is filed for five primary reasons. First, I address the appropriate
3 used and useful (“U&U”) percentages for those water and wastewater systems
4 protested by the Office of Public Counsel (“OPC”) in its petition filed on July 1,
5 2011. Second, I address the appropriate cost-of-living and market-based salary
6 increases set forth in AUF’s MFRs, which AUF raised as an issue in its cross-
7 petition filed on July 11, 2011. Third, I address the appropriate Commission-
8 approved leverage formula to establish AUF’s return on equity (“ROE”) in this
9 case, which AUF raised as an issue in its cross-petition filed on July 11, 2011.
10 Fourth, I address the appropriate calculation of the Regulatory Asset related to
11 deferred interim revenues in this case, which AUF raised as an issue in its cross-
12 petition filed on July 11. Finally, I address the appropriate criteria which the
13 Commission should use in establishing the rate structure for AUF’s water and
14 wastewater system, which issue was raised by Ms. Wambsgan in her cross-petition
15 filed on July 11, 2011.

16
17 **Q. Are you sponsoring or co-sponsoring any parts of AUF’s MFRs?**

18 A. Yes, I am sponsoring the following MFR Schedules: A-5; A-6; A-9; A-10; B-1;
19 B-2; B-3; B-13; B-14; D-1; E-1w; E-1s; and, F-1 through F-10.

20
21 **Q. Are you sponsoring any exhibits to your direct testimony?**

22 A. Yes. I am sponsoring the following exhibits which are attached to my testimony:

23 **Composite Exhibit TR-1** - is a composite schedule setting forth in the U&U
24 percentages that the Commission approved for all of

1 AUF's water and wastewater treatment systems in
2 Docket No. 080121-WS.

3 **Composite Exhibit TR-2 -** is a schedule comparing the U&U percentages
4 established in Docket No. 080121-WS to the U&U
5 percentages set forth in Order No. PSC-11-0256-
6 PAA-WS (the "PAA Order") in this case.

7 **Exhibit TR-3 -** is an updated market-based salary study.
8

9 **Q. Where those exhibits prepared by you or under your direction and
10 supervision?**

11 A. Yes.
12

13 **Q. Please summarize your testimony.**

14 A. The U&U percentages that AUF relied to establish rate base in this proceeding
15 have been properly calculated using the methodologies that the Commission
16 approved just over two years ago in AUF's last rate case. Because there have
17 been no changes to the Commission's U&U Rules and no structural or operational
18 changes to AUF's systems since the last rate case, there is no reason to deviate
19 from those previously approved U&U methodologies and resulting percentages.
20 Moreover, my testimony shows that ignoring the previously approved U&U
21 methodologies and percentages would unnecessarily embroil AUF, the
22 Commission and the parties in protracted disputes that ultimately will lead to
23 higher rate case expense for customers.
24

1 The salary increases included in AUF's MFRs are reasonable and necessary in
2 order for AUF to attract and retain qualified employees in this market.
3 Furthermore, the requested increases are consistent with recent Commission
4 orders approving salary increases for other similarly situated utilities.

5
6 My testimony explains that AUF's return on equity ("ROE") should be
7 established using the approved leverage formula in effect at the time the
8 Commission votes on the final rates in this case. I further explain how the amount
9 of the Regulatory Asset related to deferred interim rate relief should be
10 calculated.

11
12 Finally, my testimony demonstrates that the uniform rate structure proposed by
13 AUF provides definitive benefits to customers. Furthermore, there are no legal or
14 policy impediments to the Commission adopting a uniform rate structure for AUF
15 in this case.

16
17 *The Appropriate U&U Percentages*

18 **Q. Please describe the "Used and Useful" concept as it applies to regulated**
19 **utilities?**

20 **A.** The term "used and useful" is simply a regulatory rate setting term that describes
21 the cost of property that is included in a utility's rate base (net investment) upon
22 which the utility is entitled to earn a rate of return. The balance of the cost of
23 property that is excluded from rate base is referred to as "non used and useful" or
24 "future use" plant.

1 **Q. Is there a prescribed method in Florida for performing U&U analyses?**

2 A. Yes. The Commission adopted Rule 25-30.4325, Florida Administrative Code
3 (“F.A.C.”) with respect to water treatment and storage U&U calculations in Docket
4 No. 070183-WS. In addition, Rule 25-30.432, F.A.C. provides for wastewater
5 treatment plant U&U calculations.

6

7 **Q. Please describe the U&U percentages that AUF applied in its MFRs.**

8 A. AUF calculated the U&U percentages for all of its water and wastewater systems
9 using the methodologies which the Commission approved just over two years ago
10 in AUF’s last rate case in Docket No. 080121-WS. In that last proceeding, both
11 OPC and AUF sponsored expert witnesses to testify on the U&U issues. Those
12 U&U issues were the subject of voluminous discovery and were intensely litigated.
13 The Commission closely scrutinized the competing expert testimony and made
14 U&U determinations for all AUF systems in that case. Because the U&U
15 percentages were previously determined by the Commission just over two years
16 ago, and because there have been no changes to the Commission’s U&U Rules and
17 no structural or operational changes to AUF’s systems since that time, it is very
18 important for the Commission to honor its prior decisions in this area.

19

20 **Q. Why is it so important for the Commission to honor its prior decisions in this**
21 **area?**

22 A. Ignoring the U&U percentages recently established by a final order undermines
23 regulatory certainty, which is a core principle for any regulated electric, gas, water
24 or wastewater utility.

1 The water and wastewater utility industry is a capital intensive business. To meet its
2 customers' needs for safe and reliable service, AUF must have access to capital,
3 which comes primarily from two sources: debt (e.g., loans from lenders and bond
4 issuances) and equity (e.g., sales of stock). Casting aside recently established U&U
5 determinations when there is no material change in utility operational conditions
6 sends a dangerous signal to utilities and increases risks to potential suppliers of
7 investment capital. These heightened risks and uncertainties in turn can cause
8 lenders to impose a higher interest rate on loans, and investors to demand higher
9 returns to induce them to invest in the utility. Higher interest and higher returns
10 ultimately results in a higher cost of capital which leads to increases in rates for
11 customers.

12
13 **Q. Are there other problems with ignoring the U&U percentages and**
14 **methodologies recently approved by the Commission?**

15 A. Yes. The courts in Florida have made it very clear that the Commission must
16 "adhere to its prior practices in calculating used and useful percentages" and cannot
17 deviate from those practices unless there are bona fide facts supporting a change.
18 *Southern States Utilities v. Florida Water Services Corp.*, 714 So. 2d 1046, 1057
19 (Fla. 1st DCA 1998). As I have stated, there have been no operational or structural
20 changes to the systems OPC has protested that would warrant a change to the U&U
21 methodologies previously approved by the Commission.

22
23 Furthermore, the Commission established the U&U percentages in the last rate case
24 using the Commission's U&U Rules. Those rules have not changed since AUF's

1 last rate case. Moreover, the Commission's U&U Rules were adopted to limit the
2 controversies and costs associated with contested U&U determinations that often
3 require the parties to retain the services of expensive expert witnesses. To now
4 ignore those U&U determinations would eviscerate the cost-savings policies upon
5 which the U&U Rules were based. The result is higher rate case expense which is
6 ultimately borne by the customer.

7
8 ***Water Treatment***

9 **Q. What are the appropriate U&U percentages for the water treatment and
10 related facilities which OPC has protested?**

11 A. OPC has protested the U&U percentages for those water treatment and related
12 facilities at the following specific systems: Arredondo Estates, Arredondo Farms,
13 Breeze Hill, Carlton Village, East Lake Harris/Friendly Center, Fairways, Fern
14 Terrace, Hobby Hills, Interlachen/Park Manor, Lake Josephine/Sebring Lakes,
15 Picciola Island, Rosalie Oaks, Silver Lake Estates/Western Shores, Tomoka View,
16 Twin Rivers, Venetian Village, Welaka, and Zephyr Shores. With the exception of
17 the Breeze Hill and Fairways systems (which were not part of AUF's last rate case),
18 the appropriate U&U percentages for these water treatment and related facilities are
19 the percentages fully and finally determined in AUF's last rate case by Commission
20 Order No. PSC-09-0385-FOF-WS dated May 29, 2009 ("Final Rate Order").
21 Attached as Composite Exhibit TR-1 is a schedule that sets forth the U&U
22 percentages for the water treatment and related facilities that the Commission
23 approved in its Final Rate Order.

24

1 **Q. Has AUF prepared a schedule supporting the U&U percentages for the water**
2 **treatment and related facilities that OPC has protested?**

3 A. Yes, that information is included in the F-Schedules to AUF's MFRs, which I am
4 sponsoring.

5

6 **Q. Did OPC participate in AUF's last rate case on this U&U issue?**

7 A. Yes. OPC was a party to and actively participated in AUF's last rate case. During
8 the course of that case, OPC sponsored an expert witness -- Mr. Andrew Woodcock
9 -- who presented extensive expert testimony on the U&U issues specifically related
10 to AUF's water treatment and related facilities. In fact, OPC actually stipulated in
11 the last rate case to the U&U percentages for Carlton Village, Picciola Island, and
12 Venetian Village water treatment systems that they are now protesting.

13

14 **Q. Did OPC appeal the Final Rate Order which established the U&U percentages**
15 **for the water treatment and related facilities at these systems?**

16 A. No. OPC did not appeal the Final Rate Order, nor did it attempt to seek
17 reconsideration of any portion of the order.

18

19 **Q. Have there been any operational or structural changes to these systems which**
20 **should cause the Commission to alter the U&U percentages it established in**
21 **the Final Rate Order?**

22 A. No. There have been no operational or structural changes made to these systems
23 since the issuance of the Final Rate Order that requires the Commission to revisit its
24 final U&U determinations made in the last rate case. I would note that for Zephyr

1 Shores, one additional well was installed in order to comply with Florida
2 Department of Environmental Protection ("FDEP") Rule 62-555.315(2), F.A.C.,
3 which requires all community water systems serving a population of 350 or more to
4 have a second well. However, the Zephyr Shores system is fully built out and there
5 is no potential for expansion. Accordingly, pursuant to Rule 25-30.4325(4), F.A.C.,
6 the Zephyr Shores system should be considered 100% U&U just as it was in AUF's
7 last rate case.

8
9 **Q. You mentioned that Breeze Hill and Fairways systems were not part of AUF's**
10 **last rate case, and that the water treatment plant and related facilities for**
11 **those systems were not previously determined in the Final Rate Order. What**
12 **are the appropriate U&U percentages for the water treatment plants and**
13 **related facilities at the Breeze Hill and the Fairways systems?**

14 A. The Breeze Hill water treatment plant and related facilities were previously
15 determined to be 100% U&U in two prior staff-assisted rate cases involving this
16 system: Order No. PSC-02-1114-PAA-WS, issued August 14, 2002; and Order No.
17 PSC-99-2394-FOF-WS, issued December 7, 1999. OPC participated in both of
18 those rate cases involving Breeze Hill and did not appeal the U&U determinations
19 in those cases. There have been no operational or structural changes made to the
20 Breeze Hill system since the Commission's previous orders establishing U&U
21 percentages. Therefore, the appropriate U&U percentages for the Breeze Hill water
22 treatment system and related facilities should remain at 100%.

23

24

1 As shown in MFR Schedules F-7 and F-8 the Fairways water treatment system and
2 related facilities are completely built out with no possibility of expansion.
3 Therefore, consistent with past Commission practice and in accordance with Rule
4 25-30.4325(4), F.A.C., the Fairways water treatment system and related facilities
5 should be considered 100% U&U.

6
7 *Water Distribution Systems*

8 **Q. What are the appropriate U&U percentages for the water distribution systems**
9 **that OPC has protested?**

10 A. OPC has protested the U&U percentages for those water distribution facilities at
11 the following specific systems: Arredondo Estates, Arredondo Farms, Beecher's
12 Point, Breeze Hill, Fairways, Gibsonia Estates, Interlachen/Park Manor,
13 Kingswood, Lake Josephine/Sebring Lakes, Oakwood, Orange Hill/Sugar Creek,
14 Palm Port, Palms Mobile Home Park, Peace River, Piney Woods, Ravenswood,
15 River Grove, Rosalie Oaks, Silver Lake Estates/Western Shores, Silver Lake Oaks,
16 Skycrest, Stone Mountain, Sunny Hills, The Woods, Tomoka View, Twin Rivers,
17 Valencia Terrace, Venetian Village, Village Water, Welaka, Wootens, and Zephyr
18 Shores. With the exception of the Breeze Hill, the Fairways and the Peace River
19 systems (which were not part of AUF's last rate case), the appropriate U&U
20 percentages for these water distribution facilities are the percentages fully and
21 finally determined in the Final Rate Order. The Commission-approved U&U
22 percentages for those water distribution facilities are set forth in Exhibit TR-1.

23

24

1 **Q. Has AUF prepared a schedule supporting the U&U percentages for the water**
2 **distribution facilities that OPC has protested?**

3 A. Yes, that information is included in the F Schedules in AUF's MFRs, which I am
4 sponsoring.

5

6 **Q. Did OPC participate on this U&U issue in AUF's last rate case?**

7 A. Yes. As I previously stated, the OPC was a party to and actively participated in
8 AUF's last rate case. OPC's expert witness -- Mr. Andrew Woodcock -- presented
9 extensive expert testimony on the U&U issues specifically related to AUF's water
10 distribution facilities. In fact, in the last rate case OPC actually stipulated to the
11 U&U percentages for the distribution systems at Interlachen/Park Manor, Stone
12 Mountain, and Sunny Hills, which percentages OPC now protests in this case.

13

14 **Q. Did OPC appeal the Final Rate Order which established the U&U percentages**
15 **for the water distribution facilities at these systems?**

16 A. No. OPC did not appeal the Final Rate Order, nor did it attempt to seek
17 reconsideration of any portion that order.

18

19 **Q. Have there been any operational or structural changes made to these systems**
20 **since the last rate case which should cause the Commission to alter the U&U**
21 **percentages it established in the Final Rate Order?**

22 A. No. There have been no operational or structural changes made to these systems
23 since the Commission issued the Final Rate Order in AUF's previous rate case.

24

1 **Q. You mentioned that that the Breeze Hill, the Fairways and the Peace River**
2 **systems were not part of AUF's last rate case, and that the U&U percentages**
3 **for the water distribution facilities at those systems were not previously**
4 **determined in the Final Rate Order. What is the appropriate U&U percentage**
5 **for the water distribution facilities at the Breeze Hill system?**

6 A. The Breeze Hill water distribution facilities were previously determined to be 100%
7 U&U in two prior staff-assisted rate cases involving this system: Order No. PSC-
8 02-1114-PAA-WS, issued August 14, 2002; and Order No. PSC-99-2394-FOF-
9 WS, issued December 7, 1999. OPC participated in both of those rate cases
10 involving Breeze Hill and did not appeal the U&U determinations in those cases.
11 There have been no operational or structural changes made to the Breeze Hill
12 system since the Commission's previous orders establishing U&U percentages.
13 Therefore, the appropriate U&U percentages for the Breeze Hill water distribution
14 facilities should remain at 100%.

15
16 **Q. What is the appropriate U&U percentage for the water distribution facilities**
17 **for Fairways?**

18 A. As shown in AUF's MFR Schedules F-7 and F-8 and the system maps which AUF
19 supplied as part of its application for rate relief, the Fairways water distribution
20 system is completely built out with no possibility of expansion. Thus, consistent
21 with past Commission practice, the Fairways water distribution system should be
22 considered 100% U&U.

23

24

1 **Q. What is the appropriate U&U percentage for the water distribution facilities**
2 **for Peace River system?**

3 A. As shown in AUF's MFR Schedules F-7 and F-8 and the system maps which AUF
4 supplied as part of its application for rate relief, the Peace River water distribution
5 system is completely built out with no possibility of expansion. Thus, consistent
6 with past Commission practice, the Peace River water distribution system should be
7 considered 100% U&U.

8

9

Wastewater Treatment

10 **Q. What are the appropriate U&U percentages for the wastewater treatment and**
11 **related facilities which OPC has protested?**

12 A. OPC has protested the U&U percentages for those wastewater treatment and related
13 facilities at the following specific systems: Arredondo Farms, Breeze Hill,
14 Fairways, Florida Central Commerce Park, Holiday Haven, Jungle Den, Kings
15 Cove, Leisure Lakes, Morningview, Palm Port, Peace River, Rosalie Oaks, Silver
16 Lake Oaks, South Seas, Summit Chase, Sunny Hills, The Woods, Valencia Terrace,
17 Venetian Village, and Village Water. With the exception of the Breeze Hill, the
18 Fairways and the Peace River systems (which were not part of AUF's last rate
19 case), the appropriate U&U percentages for these wastewater treatment and related
20 facilities are the percentages fully and finally determined in the Final Rate Order.
21 Those U&U percentages for the wastewater treatment and related facilities are set
22 forth in Exhibit TR-1.

23

24

1 **Q. Has AUF prepared a schedule supporting the U&U percentages for the**
2 **wastewater treatment and related facilities that OPC has protested?**

3 A. Yes, that information is included in the F Schedules in AUF's MFRs, which I am
4 sponsoring.

5
6 **Q. Did OPC participate on this U&U issue in AUF's last rate case?**

7 A. Yes. As I previously stated, the OPC was a party to and actively participated in
8 AUF's last rate case. During the course of that case, OPC sponsored an expert
9 witness -- Mr. Andrew Woodcock -- who presented extensive expert testimony on
10 the U&U issues specifically related to AUF's wastewater treatment and related
11 facilities. In fact, in the last AUF rate case OPC actually stipulated to the U&U
12 percentages for the wastewater treatment systems at Holiday Haven, Leisure Lakes,
13 and Silver Lake Oaks, which percentages OPC now protests in this case.

14
15 **Q. Did OPC appeal the Final Rate Order which established the U&U percentages**
16 **for the wastewater treatment and related facilities at these systems?**

17 A. No. OPC did not appeal the Final Rate Order, nor did it attempt to seek
18 reconsideration of any portion that order.

19
20 **Q. Have there been any operational or structural changes made to these systems**
21 **since the last rate case which should cause the Commission to alter the U&U**
22 **percentage it established in the Final Rate Order?**

23 A. No. There have been no operational or structural changes made to these systems
24 since the Commission issued the Final Order in AUF's previous rate case.

1

2 **Q. You mentioned that that the Breeze Hill, the Fairways and the Peace River**
3 **systems were not part of AUF's last rate case, and that the U&U percentages**
4 **for the wastewater treatment and related facilities at those systems were not**
5 **previously determined in the Final Rate Order. What is the appropriate U&U**
6 **percentage for the wastewater treatment and related facilities at the Breeze**
7 **Hill system?**

8 A. The Breeze Hill wastewater treatment and related facilities were previously
9 determined to be 56.3% U&U in Order No. PSC-02-1114-PAA-WS, issued August
10 14, 2002, and in Order No. PSC-99-2394-FOF-WS, issued December 7, 1999.
11 OPC participated in both of those rate cases involving Breeze Hill and did not
12 appeal the U&U determinations in those cases. There have been no operational or
13 structural changes made to the Breeze Hill system since the Commission's previous
14 orders establishing U&U percentages. The appropriate U&U percentages for the
15 Breeze Hill wastewater treatment and related facilities should remain at 56.3%.

16

17 **Q. What is the appropriate U&U percentage for the wastewater treatment and**
18 **related facilities for Fairways?**

19 A. As set forth in AUF's MFR Schedules F-7 and F-8 and the system maps which
20 AUF supplied as part of its application for rate relief, the Fairways wastewater
21 treatment and related facilities are completely built out with no possibility of
22 expansion. Therefore, in accordance with Rule 25-30.432, F.A.C. and consistent
23 with past Commission practice, the Fairways wastewater treatment and related
24 facilities should be considered 100% U&U.

1 **Q. What is the appropriate U&U percentage for the wastewater treatment and**
2 **related facilities for Peace River system?**

3 A. As set forth in AUF's MFR Schedules F-7 and F-8 and the system maps which
4 AUF provided as part of its application for rate relief, the Peace River wastewater
5 treatment and related facilities are completely built out with no possibility of
6 expansion. Therefore, in accordance with Rule 25-30.432, F.A.C. and consistent
7 with past Commission practice, the Peace River wastewater treatment and related
8 facilities should be considered 100% U&U.

9

10

Wastewater Collection

11 **Q. What are the appropriate U&U percentages for the wastewater collection**
12 **systems which OPC has protested?**

13 A. OPC has protested the U&U percentages for those wastewater collection facilities
14 at the following specific systems: Beecher's Point, Breeze Hill, Fairways, Florida
15 Central Commerce Park, Holiday Haven, Jungle Den, Peace River, Rosalie Oaks,
16 Silver Lake Oaks, Sunny Hills, The Woods, Village Water, and Zephyr Shores.
17 With the exception of the Breeze Hill, the Fairways and the Peace River systems
18 (which were not part of AUF's last rate case), the appropriate U&U percentages for
19 these wastewater collection facilities are the percentages fully and finally
20 determined in the Final Rate Order. Those U&U percentages for the wastewater
21 collection facilities are set forth in Exhibit TR-1.

22

23

24

1 **Q. Has AUF prepared a schedule supporting the U&U percentages for the**
2 **wastewater collection facilities that OPC has protested?**

3 A. Yes, that information is included in the F Schedules in AUF's MFRs, which I am
4 sponsoring.

5
6 **Q. Did OPC participate on this U&U issue in AUF's last rate case?**

7 A. Yes. As I previously stated, the OPC was a party to and actively participated in
8 AUF's last rate case. During the course of that case, OPC sponsored an expert
9 witness -- Mr. Andrew Woodcock -- who presented extensive expert testimony on
10 the U&U issues specifically related to AUF's wastewater collection facilities. In
11 fact, in the last rate case OPC actually stipulated to the U&U percentages for the
12 wastewater collection facilities at Holiday Haven.

13
14 **Q. Did OPC appeal the Final Rate Order which established the U&U percentages**
15 **for the wastewater collection facilities at these systems?**

16 A. No. OPC did not appeal the Final Rate Order, nor did it attempt to seek
17 reconsideration of any portion that order.

18
19 **Q. Have there been any operational or structural changes made to these systems**
20 **since the last rate case which should cause the Commission to alter the U&U**
21 **percentages it established in the Final Rate Order?**

22 A. No. There have been no operational or structural changes made to these systems
23 since the Commission issued the Final Rate Order.

24

1

2 **Q. You mentioned that that the Breeze Hill, the Fairways and the Peace River**
3 **systems were not part of AUF's last rate case, and that the U&U percentages**
4 **for the wastewater collection facilities at those systems were not previously**
5 **determined in the Final Rate Order. What is the appropriate U&U percentage**
6 **for the wastewater collection facilities at the Breeze Hill system?**

7 A. The Breeze Hill wastewater collection facilities were previously determined to be
8 100% U&U in two prior staff-assisted rate cases involving this system: Order No.
9 PSC-02-1114-PAA-WS, issued August 14, 2002; and Order No. PSC-99-2394-
10 FOF-WS, issued December 7, 1999. OPC participated in both of those rate cases
11 involving Breeze Hill and did not appeal the U&U determinations in those cases.
12 There have been no operational or structural changes made to the Breeze Hill
13 system since the Commission's previous orders establishing U&U percentages.
14 Therefore, the appropriate U&U percentages for the Breeze Hill wastewater
15 collection facilities should be 100%.

16

17 **Q. What is the appropriate U&U percentage for the wastewater collection**
18 **facilities for Fairways?**

19 A. As set forth in AUF's MFR Schedules F-7 and F-8 and as shown in the system
20 maps which AUF filed as part of its application for rate relief, the Fairways
21 wastewater collection facilities are completely built out with no possibility of
22 expansion. Therefore, consistent with past Commission practice, the Fairways
23 wastewater collection facilities should be considered 100% U&U.

24

1

2 **Q. What is the appropriate U&U percentage for the wastewater collection**
3 **facilities for Peace River system?**

4 A. As set forth in AUF's MFR Schedules F-7 and F-8 and as shown in the system
5 maps which AUF filed as part of its application for rate relief, the Peace River
6 wastewater collection facilities are completely built out with no possibility of
7 expansion. Therefore, consistent with past Commission practice, the Peace River
8 wastewater collection facilities should be considered 100% U&U.

9

10

Salaries

11 **Q. Has AUF protested any portion of the PAA Order concerning the appropriate**
12 **Salaries and Wages -- Employees expense in this rate case?**

13 A. Yes. In its MFRs, AUF requested a cost-of-living salary increase for all of its
14 employees, and a targeted pro forma market-based salary increase for its operators
15 and field technicians. AUF has protested that portion of the PAA Order which
16 proposes to disallow the cost-of-living increase and the targeted market-based
17 salary increase. AUF believes that both of these salary increases are necessary and
18 reasonable.

19

20 **Q. Please explain why AUF believes the cost-of-living salary increase is necessary**
21 **and reasonable?**

22 A. A cost-of-living salary increase is needed for AUF to attract and retain qualified
23 employees. The Commission has recognized that in order for a utility like AUF to
24 attract and retain qualified employees, employee salaries must keep pace with cost-

1 of-living increases. For example, earlier this year in Docket No. 100104-WU, the
2 Commission found that it was “appropriate” to award the utility an across-the-board
3 salary increase of 3%. The amount of that increase was actually suggested by the
4 OPC. See Order No. PSC-11-0010-SC-WU (January 3, 2011). The Commission
5 also inherently approved an across-the-board 3.5% salary increases when it
6 approved a rate increase for Labrador Utilities, Inc., in Docket No. 080249-WS.
7 See Order No. PSC-09-0462-PAA-WS (June 22, 2009).

8
9 **Q. Has the Commission made similar decisions pertaining to AUF’s cost-of-living**
10 **salary increases in any prior AUF rate case?**

11 A. Yes. In its Final Rate Order, the Commission recognized that the Utility was
12 “entitled to give its employees a cost-of-living increase.” See Order No. PSC-09-
13 0385-FOF-WS at p. 107.

14
15 **Q. Please explain why AUF believes the pro forma market-based salary increase**
16 **for its operators and field technicians is necessary and reasonable?**

17 A. In order for AUF continue to provide its customers with reliable and efficient water
18 and wastewater services, it must be able to attract and retain qualified operators and
19 field technicians. To do this, the Company has to remain competitive in terms of
20 salary. That means that the salaries for its operators and field technicians must be
21 on the same level as the salaries which other utilities pay their employees in similar
22 positions.

1 **Q. Is this market-based salary increase based on any market studies?**

2 A. Yes. This targeted salary increase for operators and field technicians is based on a
3 market study by Saje Consulting Group Inc., which evaluated AUF's salary
4 structure, and benchmarked our Company against other utilities, as well as the
5 general industry. Because the study was based on 2007 market information, AUF
6 updated that study to reflect 2010 market data, including 2010 salary information
7 and licensure requirements. The updated analysis demonstrates that a salary
8 increase is needed in order for AUF to attract and retain qualified operators and
9 technicians. Because the updated market study contains highly proprietary salary
10 information which could be used by AUF's competitors to lure qualified operators
11 and field technicians away, AUF is asking that the updated market study be treated
12 as proprietary confidential business information. A redacted public version of the
13 updated study is attached to my testimony as Exhibit TR- 3.

14
15 **Q. Has the Commission made similar decisions pertaining to a market-based**
16 **salary increase in any prior AUF rate case?**

17 A. Yes. In AUF's last rate case the Commission granted AUF a market-based salary
18 increase noting that the increase was properly supported by the market-based study
19 prepared by Saje Consulting Group, Inc. and was consistent with Commission
20 precedent. As the Commission noted in a recent rate case involving Florida Public
21 Utilities Company, a utility needs to take "appropriate action to assure that its
22 employee salaries are on the same level as other utility employees so that the
23 Company will be competitive in hiring and retaining well trained and effective
24 employees." See PSC Order No. PSC-08-0327-FOF-E (May 19, 2009). This is

1 what AUF is proposing to do in this case.

2

3 **Q. Has AUF's proposed salary increase been independently analyzed by**
4 **Commission Staff?**

5 A. Yes. Staff has evaluated AUF's requested salary increase and has noted that AUF's
6 requested salary increase is consistent with the American Water Works Association
7 2008 compensation survey. Staff also has indexed the requested salary increase to
8 the hourly rates for maintenance workers which the Commission has previously
9 approved in other cases. In both instances, the Staff has concluded that the market-
10 based increase requested by AUF is reasonable.

11

12 *Use Of Current Leverage Formula*

13 **Q. What is the appropriate Commission-approved leverage formula to use in**
14 **establishing AUF's ROE in this case?**

15 A. It should be noted at the outset that no one has protested the use of the
16 Commission's leverage formula to establish AUF's ROE in this case. The
17 appropriate leverage formula to use in this case is the approved leverage formula in
18 effect at the time the Commission votes to set final rates in this formal
19 administration proceeding. See Order No. PSC-09-0632-PAA-WU (Sept. 17,
20 2009) (The Commission's practice is "to use the most recent leverage formula in
21 effect at the time we vote to approve final rates"). Because OPC has protested the
22 rates set forth in the PAA Order, the Commission will not vote on final rates in this
23 case until the first part of next year. The Commission's leverage formula in effect
24 at the time of that vote should be the leverage formula used in this case.

1

2 **Q. What is the Commission-approved leverage formula currently in effect at this**
3 **time?**

4 A. The Commission-approved leverage formula currently in effect at this time is set
5 forth in Order No. PSC-11-0287-PAA-WS (July 5, 2011).

6

7 **Q. What is the ROE produced by the Commission's leverage formula when**
8 **applied to AUF?**

9 A. Using the current leverage formula approved in Order No. 11-0287-PAA-WS,
10 AUF's return on common equity is 9.76%, which is calculated as follows: Return
11 on Common Equity = 7.13% + (1.610 / .6122).

12

13

Regulatory Asset Calculation

14 **Q. Please discuss the Regulatory Asset concept in the PAA Order?**

15 A. In its MFRs, AUF proposed to defer recovery of a portion of interim rate relief to
16 which it was entitled, and requested that the Commission recognize the amount of
17 that deferred interim rate relief as a Regulatory Asset to be recovered over a two-
18 year period, once final rates are determined. Although the PAA Order
19 appropriately approved the Regulatory Asset concept, it miscalculated the amount
20 of the Regulatory Asset.

21

22 **Q. What caused the amount of the Regulatory Asset to be miscalculated?**

23 A. In calculating the amount of Regulatory Asset, the Commission assumed that the
24 PAA rate would be implemented in May of 2011. However, because OPC and Ms.

1 Wambsgan filed formal protests to the PAA Order, the PAA rates were not
2 implemented in May of 2011. Instead, the PAA rates were implemented on August
3 1, 2011, after the Commission voted to acknowledge the PAA rates. Thus, the
4 amount of the Regulatory Asset in the PAA Order is understated.

5
6 **Q. What is the appropriate amount of the total Regulatory Assets for water and
7 wastewater?**

8 A. In its workpapers, Staff assumed that interim rates would remain in effect for 215
9 days until the PAA rates were implemented. Using August 1, 2011 as the effective
10 date of the PAA rates, the interim rates were actually in effect for 245 days.
11 Therefore, using Staff's worksheet, the appropriate amount of total Regulatory
12 Assets for water and wastewater should be \$464,042 and \$252,637, respectively.
13 The total annual amortization amount is \$232,021 for water and \$126,318 for
14 wastewater.

15
16 ***Rate Structure***

17 **Q. What is rate structure?**

18 A. To accurately describe the concept of rate structure, one must first understand
19 revenue requirement. "Revenue requirement" is the amount of money generated
20 from rates that will allow a utility (i) to earn a fair rate of return on the utility
21 property that provides the services (rate base) and (ii) to cover the utility's
22 operating expenses and taxes. See *Citizens v. Hawkins*, 364 So. 2d 723 (Fla.
23 1978). "Rate structure," on the other hand, refers to the way rates are designed to
24 equitably allocate a utility's revenue requirement among the utility's customers. A

1 paramount rule in designing rates is that the utility's revenue requirement must be
2 established prior to designing the rate structure, and that the rate structure selected
3 must allow the utility to recover its "revenue requirement". See *Southern States*
4 *Utilities, supra*, 714 So.2d 1051-1052 (confirming that before a rate structure is
5 put in place, the Commission "must approve a determination of the utility's
6 overall revenue requirements"). The Commission strictly adheres to this rule in
7 establishing rate structures for the water and wastewater utilities by selecting "rate
8 design parameters that (1) allow the Utility to recover its revenue requirement; (2)
9 equitably distribute cost recovery among the Utility's customers; and (3)
10 implement, where appropriate, water conserving rate structures". See, *e.g.*, Order
11 No. 11-0199-PAA-WU (April 22, 2011).

12
13 **Q. What if a rate structure is designed so that precludes the utility from**
14 **recovering its revenue requirement?**

15 A. The rate structure would be confiscatory, and would be struck down as an
16 unconstitutional deprivation of property rights under *Federal Power Commission*
17 *v. Hope Natural Gas Co.*, 320 U.S. 591, 605 (1944).

18
19 **Q. What rate structure is AUF proposing in this rate case?**

20 A. AUF is proposing a state-wide uniform rate structure for its water and wastewater
21 systems. This approach uses a unified rate structure for multiple water and
22 wastewater utility systems that are owned and operated by a single utility. Under
23 this uniform pricing structure, customers pay a single utility the same rate for
24 similar service. This uniform rate structure is widely used by electric and natural

1 gas utilities in Florida.

2 **Q. What are the benefits of a uniform rate structure?**

3 A. A uniform rate structure can protect customers from sudden and substantial rate
4 increases (“rate shock”). For example, if a small stand alone system (like many
5 systems in Florida) needs major capital improvements, a uniform rate structure will
6 spread those costs over a larger customer base, thus making the resulting rates
7 lower. Uniform rate structures also address system efficiency and viability issues.
8 By being able to minimize rate shock to customers and spread the increasing cost of
9 required capital improvements, the utility is able to respond to capital needs in a
10 more timely manner.

11

12 **Q. Can you elaborate on the benefits of a uniform rate structure?**

13 A. Certainly. The Environmental Protection Agency (“EPA”) recommends over \$335
14 billion in infrastructure improvements are needed over the next 20 years for water
15 utilities across the nation. Many of these utilities, whether private or
16 governmentally owned, will be faced with significant rate increases over the next
17 several years. By being able to levelize these costs over a larger customer base, a
18 multi-system utility like AUF is able to minimize future rate increases. This also
19 encourages utilities to make prudent capital investments in infrastructure
20 improvements that are necessary to provide safe, efficient and environmentally
21 compliant service. Some of the systems purchased by AUF have experienced
22 operational issues that are to be expected with aging infrastructure. These issues
23 can be most efficiently addressed with minimal rate impact to our customers
24 through a uniform rate structure. Uniform rate structures have proven beneficial to

1 customers of electric and natural gas utilities, and will be just as beneficial for
2 AUF's customers.

3
4 **Q. How does AUF's uniform rate structure compare to the modified cap band
5 structure set forth in the PAA Order?**

6 A. The rate structure in the PAA Order essentially groups AUF's customers into two
7 groups (bands) and then establishes a separate uniform rate structure for each
8 band.

9
10 **Q. What would an average AUF customer pay for water and wastewater services
11 under AUF's proposed uniform rate structure?**

12 A. On a monthly basis, the average AUF customer uses approximately 4,680 gallons
13 of water and 3,760 gallons of wastewater. Using actual customer usage data, an
14 AUF customer's average water bill would be approximately \$48.03 per month, and
15 the average wastewater bill would approximately \$73.70 per month. Thus, AUF's
16 proposed uniform rate structure addresses affordability.

17
18 **Q. Is there anything to prohibit the Commission from establishing a fully
19 consolidated uniform rate structure for AUF?**

20 A. No. As I have stated, the Commission has already established two uniform rate
21 structures for AUF--one for each band. There is no compelling reason for the
22 Commission not to move AUF from two uniform rate structures to one fully
23 consolidated uniform rate.

24

1

2 **Q. Does the Commission have the authority to adopt uniform rates?**

3 A. There is no doubt that the Commission has the statutory authority to establish
4 uniform rates for AUF. The Florida First District Court of Appeal has made it
5 clear that the Commission “has very broad authority in determining rates”
6 provided that the rates are “fair, just, and reasonable”. *Southern States Utilities,*
7 *supra*, 714 So.2d 1051-1052. The court also found that uniform rates were not
8 “inherently discriminatory” and recognized that the Commission “has set uniform
9 rates in other cases involving multiple systems.” *Id.*

10

11 **Q. Do the subsidy and affordability discussions previously used by the**
12 **Commission to evaluate rate structures preclude it now from adopting a fully**
13 **uniform rate structure for AUF?**

14 A. No. The affordability and subsidy criteria referred to by the Commission in
15 previous cases are simply guidelines used by the Commission to evaluate
16 appropriate rate structures. As the Commission recognized in AUF’s last rate
17 case, determining which affordability and subsidy criteria to use in establishing a
18 particular rate structure is “a judgment call” and the ultimate decision on
19 affordability and subsidy criteria is “a policy decision for us to make.” See Order
20 No. 09-0385-WS (May 29, 2009).

21

22 It is also important to understand that the Commission has never used subsidy or
23 affordability criteria to establish a utility’s “revenue requirement.” These criteria
24 are only used in discussing “rate structures.”

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Q. Does AUF object to the modified capband rate structure set forth in the PAA Order?

A. No. However, AUF believes that a uniform rate structure is the better alternative, and respectfully submits that the Commission should adopt uniform rates for AUF just as it has done for electric and natural gas utilities in the state. Uniform rates for large, multi-system utilities benefit customers by ensuring that rates are kept as low as possible. The benefits are even more pronounced today as AUF strives to address increasing capital, operating and environmental compliance costs, while providing quality service at reasonable rate levels.

Q. Does this conclude your direct testimony?

A. Yes.

1 BY MR. MAY:

2 Q Mr. Rendell, have you prepared a brief summary
3 of your prefiled direct testimony?

4 A I have.

5 Q Would you please provide that summary now?

6 A Sure.

7 Good morning, Chairman and Commissioners. As
8 I stated, my name is Troy Rendell. I'm the Rates
9 Manager for Aqua Utilities Florida. I'm responsible for
10 rate and regulatory matters concerning Aqua, including
11 all filings before the Public Service Commission.

12 My direct testimony was filed for five primary
13 reasons. First, I address the appropriate used and
14 useful percentages for those water and wastewater
15 systems protested by the Office of Public Counsel. The
16 used and useful percentages that AUF relied on to
17 establish rate base in this proceeding have been
18 properly calculated using the methodologies that the
19 Commission approved just over two years ago in AUF's
20 last rate case.

21 Because there have been no changes to the
22 Commission's used and useful rules or any structural or
23 operational changes to AUF's systems since the last rate
24 case, there is no reason to deviate from those
25 previously approved used and useful methodologies and

1 resulting percentages.

2 Moreover, my testimony shows that ignoring the
3 previously approved used and useful methodologies and
4 percentages would unnecessarily embroil AUF, the
5 Commission, and the parties in protracted disputes that
6 ultimately will lead to higher rate case expense for the
7 customers.

8 Second, I address the appropriate performance
9 or merit salary increases as well as the appropriate
10 market-based salary increases set forth in AUF's MFRs,
11 which AUF raised in its cross-petition. The salary
12 increases included in AUF's MFRs are reasonable and
13 necessary in order for AUF to attract and retain
14 qualified employees in this market.

15 Furthermore, the requested increases are
16 consistent with recent Commission orders, are proven
17 salary increases for other similarly situated utilities.

18 Third, I address the appropriate
19 Commission-approved leverage formula to establish AUF's
20 return on equity in this case. As was approved
21 yesterday, this issue has been stipulated to and has
22 been approved by this Commission.

23 Fourth, I address the appropriate calculation
24 of the regulatory asset related to the deferred interim
25 revenues in this case. I believe that AUF and the

1 Commission Staff now agree on the appropriate
2 methodology and the number of days to use in the
3 calculation of the regulatory asset, as set forth in the
4 positions in the Prehearing Order. However, I do
5 acknowledge, as well as Staff, that the final amount
6 will be dependent on the overall decisions made by this
7 Commission on the various issues identified in the
8 protest.

9 Finally, AUF agrees with the Commission's
10 decision on the PAA order on the appropriate rate
11 structure to utilize. In support, I address the
12 appropriate criteria that the Commission should use in
13 establishing the rate structure of AUF's water and
14 wastewater systems. I also offer a perspective on past
15 Commission decisions as they relate to uniform rate
16 structures in past dockets.

17 Thank you. That concludes my summary.

18 **MR. MAY:** Thank you, Mr. Rendell.

19 Aqua Utilities would tender the witness for
20 cross-examination.

21 **CHAIRMAN GRAHAM:** Thank you.

22 Mr. Rendell, welcome.

23 **THE WITNESS:** Thank you.

24 **CHAIRMAN GRAHAM:** Ms. Christensen.

25 **MS. CHRISTENSEN:** Yes. We have a packet to

1 pass out before we start our cross-examination.

2 CHAIRMAN GRAHAM: Sure.

3 (Pause.)

4 All right. Let's give these things some
5 numbers.

6 MS. CHRISTENSEN: I believe they're in order
7 of how I intend to present them in the
8 cross-examination. So Rule 25-30.4325 would be 304.

9 MR. JAEGER: No.

10 MS. BENNETT: 305, I believe.

11 CHAIRMAN GRAHAM: 305.

12 MS. CHRISTENSEN: 305? I'm sorry. You're
13 right. 305.

14 (Exhibit 305 marked for identification.)

15 Rule 25-30.3 -- or 432 would then be 306.

16 (Exhibit 306 marked for identification.)

17 Exhibit ATW-4 -- is that already in the
18 record -- is already in the record, and I would have to
19 find the number on the list, but if I can pass that up
20 for now.

21 CHAIRMAN GRAHAM: Okay.

22 MS. CHRISTENSEN: The next exhibit is a court
23 order, so that does not need an exhibit number.

24 CHAIRMAN GRAHAM: Okay.

25 MS. CHRISTENSEN: The next exhibit, which is

1 in Docket 080249, Citizens' Petition, if we can label
2 that 306.

3 **MR. JAEGER:** 307.

4 **MS. BENNETT:** 307.

5 **MS. CHRISTENSEN:** 307? I'm sorry. I am
6 losing track of my numbering.

7 (Exhibit 307 marked for identification.)

8 The next is an order, so that does not need a
9 number. The one following that is also an order, which
10 would not need a number.

11 The following one, Social Security Cost of
12 Living Adjustment, 308.

13 (Exhibit 308 marked for identification.)

14 Bureau of Labor Statistics, Unemployment
15 Statistics, 309.

16 (Exhibit 309 marked for identification.)

17 And that is the total of the exhibits.

18 **CHAIRMAN GRAHAM:** I want to thank you for
19 doing this. It makes it a lot easier than getting these
20 things one at a time and all the running around that
21 has -- it's much more efficient.

22 **MS. CHRISTENSEN:** With that said, I think I'm
23 ready to proceed.

24 **CHAIRMAN GRAHAM:** Please continue.

25 **EXAMINATION**

1 BY MS. CHRISTENSEN:

2 Q On page -- let me direct you to page 7 and 8
3 of your direct testimony. Starting at the bottom at
4 line 23, and I believe carrying over to the next page of
5 your testimony, you state that the Commission has
6 established rules for used and useful; correct?

7 A Correct.

8 Q Okay. And you're not here today testifying as
9 an engineer; is that correct?

10 A I do not have an engineer's degree.

11 Q Okay. And you're not intending to have your
12 testimony taken as testimony of an -- with engineering
13 expertise; correct?

14 A Not as an engineering expert.

15 Q Okay. And you are only testifying in your
16 capacity or with regards to past Commission decisions;
17 correct?

18 A And my experience at the Commission
19 supervising and hiring engineers.

20 Q Okay. Now if the Commission was to change
21 policy, you're not here stating that you're qualified to
22 advise the Commission as to a change of policy with
23 regards -- based on an engineering recommendation;
24 correct?

25 A Not based on an engineering recommendation.

1 Q Okay. Have you read the direct testimony of
2 OPC Witness Andy Woodcock?

3 A I have.

4 Q You said you have; correct?

5 A Yes, I have.

6 Q Okay. Now I want to refer you to the exhibit
7 that we've already marked for identification as 305.

8 A Correct.

9 Q Okay. That's Rule No. 25-30.4325, *Florida*
10 *Administrative Code*; correct?

11 A That is correct.

12 Q And that is the rule regarding water treatment
13 and storage used and useful calculations; correct?

14 A That is correct.

15 Q And have you read this rule?

16 A I actually was the primary supervisor in
17 charge of this rule when it was first docketed. This
18 rule was under my direct supervision to draft and
19 present to the Commission. However, once I left the
20 Commission, that docket was transferred to another
21 supervisor.

22 Q So then I'm guessing the answer to the
23 question is you're familiar with this rule?

24 A Very familiar.

25 Q Okay. Now you would agree that this rule

1 lists factors that must be considered in making a
2 determination of the used -- in the used and useful
3 calculation; correct?

4 A That is what it states.

5 Q Okay. But the rule does not state how these
6 factors must be treated; is that correct?

7 A Not specifically. It gives factors to
8 consider when the Commission makes the ultimate decision
9 on used and useful.

10 Q All right. So how the Commission decides to
11 treat each factor, what weight the Commission decides to
12 give each factor, is left to the discretion of the
13 Commission; correct?

14 A Based on past Commission practice and court
15 decisions and the law.

16 Q Now let me take you to what we've already
17 premarked as Exhibit 306. And this is the Rule
18 25-30.432, *Florida Administrative Code*, the wastewater
19 treatment plant used and useful calculation; correct?

20 A That is correct.

21 Q Okay. Have you read this rule?

22 A I've actually -- when I worked at the
23 Commission, I had engineers that worked under me, and we
24 determined used and useful. So I actually had to apply
25 this rule in the rate cases that I worked on at the

1 Commission.

2 Q Okay. So it's fair to say that you're
3 familiar with the rule?

4 A Extremely.

5 Q Okay. Is it true that this rule -- isn't it
6 true that this rule allows the Commission to consider
7 factors such as whether the plant is oversized for a
8 system?

9 A That is what it states.

10 Q Okay. Now let me take you to page 13.

11 A Of what?

12 Q Your direct testimony. Lines 18 through 22.
13 And on those lines you state the Fairways water
14 treatment system should be 100% used and useful;
15 correct?

16 A That is what I state.

17 Q Okay. Isn't it true that the Commission has
18 not yet established that percentage in a previous case?

19 A Fairways, to the best of my knowledge, has not
20 been the subject of a previous rate case, unlike Breeze
21 Hill.

22 Q Okay. When Aqua purchased this system, did it
23 perform any sort of due diligence analysis to evaluate
24 the capacity of the plant compared to the number of
25 connected customers?

1 A I am not personally aware of that because I
2 was not involved in that purchase.

3 Q Okay. Would you expect the company to perform
4 due diligence to make that evaluation?

5 A The utility makes due diligence in every
6 acquisition. The specifics of what they look at of
7 determining capacity I'm not personally aware. I
8 believe that's an engineering function.

9 Q Okay. Let me turn you to page 14, lines
10 3 through 7 of your direct testimony. And there you say
11 the Peace River's water distribution system should be
12 considered 100 percent used and useful; correct?

13 A That is correct.

14 Q Now isn't it true the Commission has not
15 established that percentage in a previous case for the
16 distribution system?

17 A Peace River was formerly under the
18 jurisdiction of Hardee County. They just recently
19 turned that jurisdiction over. That was something I
20 worked with the county commission on in the last rate
21 case before the county commission. I worked very
22 closely with the customers and the county commission to
23 reach a settlement in that case, and actually that was
24 precipitous of them turning jurisdiction over to the
25 Commission.

1 Q Okay.

2 A So it was, it was not before the Public
3 Service Commission until just recently.

4 Q All right. Let me ask you this. Did Aqua,
5 when it purchased the Peace River system, perform any
6 sort of due diligence analysis to evaluate the number of
7 lots fronting the mains compared to the number of
8 connecting customers?

9 A I am not aware. That was, I believe, an Aqua
10 Source purchase in 2003, so I was not with Aqua at the
11 time. I have personally visited Peace River on a couple
12 of occasions and have actually went throughout the
13 system.

14 Q Well, let me take you to page 16 of your
15 direct testimony. Okay. And there you also state that
16 the Fairways wastewater treatment system should be
17 considered 100% used and useful; is that correct?

18 A That is what I state.

19 Q Okay. Isn't it true that the Commission has
20 not established that percentage in a previous case?

21 A As I previously answered, they have not had a
22 rate case before the Commission.

23 Q Okay. And for that system, did Aqua, to your
24 knowledge, perform any sort of due diligence analysis to
25 evaluate the number of lots fronting the main as

1 compared to the number of connected customers?

2 A I believe I answered that. I was not involved
3 in the due diligence.

4 Q Okay. Now would you agree that -- or wouldn't
5 you agree that Fairways' actual used and useful
6 percentage, when calculated, is about 40%?

7 A I would have to check the MFRs.

8 (Pause.)

9 You said for the wastewater treatment?

10 Q I think we talked about the water treatment
11 system. Oh, I'm sorry. The wastewater treatment. Let
12 me make sure I'm correct. Wastewater treatment.

13 A The calculation that was on F6 of the MFRs has
14 39.95%.

15 Q Okay. Would you agree that the actual used
16 and useful should have been considered as part of the
17 purchase price?

18 A I don't believe used and useful is considered
19 in any purchase.

20 Q Let me take you to Page 17 of your testimony,
21 lines 3 through 8. And there you state the Peace River
22 wastewater treatment system should be considered 100%
23 used and useful; correct?

24 A That is what I state.

25 Q Okay. And it would also be true to state that

1 the Commission has not established a percentage, or
2 established, excuse me, that percentage in a previous
3 case?

4 A The Commission did not have jurisdiction over
5 Peace River.

6 Q Okay. Are you aware of whether or not Aqua
7 performed any sort of due diligence analysis to evaluate
8 the number of lots fronting the mains compared to the
9 number of connections for customers for the Peace River
10 wastewater treatment system?

11 A Again, that purchase was in 2003 from Aqua
12 Source. I was not with Aqua at the time, but I do know
13 that that system is completely built out, both water and
14 wastewater.

15 Q Let me ask you this. Wouldn't you agree that
16 the Peace River wastewater treatment system's actual
17 used and useful percentage, when calculated, is about
18 55%?

19 A I'm sorry. I lost my page. 54.43%.

20 Q Okay. Let me take you to page 20, lines 4
21 through 8 of your direct testimony. You state that the
22 Peace River wastewater collection system should be 100%
23 used and useful. Is that correct?

24 A Based on being billed out, correct.

25 Q Now isn't it true that the Commission has not

1 established that percentage in a previous case?

2 A I believe I already answered that. They did
3 not have jurisdiction at Peace River.

4 Q Now would you agree, subject to check, that
5 the used and useful growth factors for several systems
6 in this proceeding, as shown in Andy Woodcock's Exhibit
7 4, have changed from what was established in the 2008
8 rate case? Are you aware of that?

9 A They may have. We have, we have seen
10 reduction in customers, which -- so obviously that would
11 go to show that the growth is either -- there is no
12 growth or actually is a negative in our system. So that
13 would be indicative of a built-out system, consistent
14 with past Commission practice.

15 Q Okay. Are you aware for the Carlton Village
16 system, has seen a waste -- or water treatment used and
17 useful growth factor decline from 1.25 in the 2008 order
18 to 1.9 as filed in the MFRs in this proceeding?

19 A That is what Exhibit ATW-4 indicates. And, as
20 I indicated before, we have seen a reduction in
21 customers.

22 Q Okay. And are you also aware that a system
23 like Gibsonia Estates has seen its water distribution
24 used and useful factor decline from 1.05 in the
25 October 8th order to 1.00 as filed in the MFRs for this

1 proceeding?

2 A Again, this is -- I'm looking at
3 Mr. Woodcock's exhibit. I did not prepare this exhibit,
4 but that's what this exhibit indicates.

5 Q And you would agree, correct, that if
6 everything else were equal, that for a system like
7 Carlton Village where you have a decline in the growth
8 factor, that would cause the used and useful to be
9 different; correct?

10 A No, I would not agree with that.

11 Q You disagree that the growth factor has any
12 impact on used and useful in the calculation?

13 A It is a consideration by statute that you look
14 at a five-year growth, if -- that -- consistent with
15 past Commission practice, if your growth shows, which
16 I've indicated in my testimony there's -- several of
17 these systems have been looked at since 1995 in the last
18 SSU case, and it shows there is no growth. So that's
19 indicative of a built-out system.

20 Q Okay. Well, let me have you actually address
21 my question. Maybe I can make it much more specific.

22 Mathematically, if the growth factor declines,
23 you would agree that that would have an impact in the
24 used and useful calculation. If you used a lower growth
25 rate, that would tend to have an impact on lowering the

1 used and useful; correct?

2 A It would have an impact on the mathematical --
3 once you go through the math of the equation, it would
4 have a slight impact on the actual equation. It does
5 not have an impact on the actual determination of the
6 used and useful.

7 Q Okay. Let me take you to page 10 of your
8 direct testimony. On page 10 you discuss the
9 installation of an additional well at Zephyr Shores'
10 system as the only operational and structural changes
11 made to AUF's system since the issuance of the final
12 order in the last rate case; correct?

13 A That is what I state.

14 Q Okay. Now isn't it correct that Aqua has
15 requested pro forma additions at Leisure Lakes' system
16 for an AdEdge treatment process that would be considered
17 an operational or structural change?

18 A That is a treatment. It has nothing to do
19 with capacity. It's a treatment of the water.

20 Q But your -- that would be an operational
21 change; correct?

22 A I believe those were just installed.
23 They're -- if that's, if that's the one I'm
24 recollecting, they just went through treatment, the test
25 and startup. So at the time of the filing of the rate

1 case and my testimony, there had been no changes.

2 Q All right. But as of today there would be;
3 correct?

4 A There's been an addition of a treatment to
5 address customers' concerns through the aesthetic
6 project with those customers at their request.

7 Q So your answer to my question would be yes
8 then?

9 A There's been addition of a treatment. I would
10 agree to that.

11 Q Okay. And that would be an operational and
12 structural change to the Leisure Lakes -- or, yeah, the
13 Leisure Lakes system; correct?

14 A Sure.

15 Q Okay. Now you've also asked for pro forma
16 additions to the Sebring Lakes/Lake Josephine system for
17 additional treatment processes to address secondary
18 water quality issues, and that would also be considered
19 an operational or structural change; correct?

20 A Yes. Those changes were made through the
21 aesthetic project at the request of the customers.

22 Q Okay. Now would it also be correct that Aqua
23 has requested pro forma additions at the Peace River
24 system to address radium removal that would also be
25 considered an operational or structural change?

1 A Correct. That was required by a consent
2 order.

3 Q And it's also correct that Aqua has requested
4 pro forma additions at the Sunny Hills system to add
5 additional storage that would also be considered an
6 operational or structural change; correct?

7 A Once it is installed and in operation, but
8 currently it is not.

9 Q Okay.

10 A There's contracts, but -- and the tank's being
11 built, but it has not been installed.

12 Q And it would be correct to say that these
13 additions will require changes in operating and
14 maintenance costs.

15 A Potentially. Both up and down.

16 Q Okay. Referring to page 7 of your direct
17 testimony, line 18, you quote the 1st DCA. And isn't it
18 true that your quote begins, beginning on line 16 is
19 only part of the court opinion; correct?

20 A I did not quote the entire court opinion, so I
21 guess that would be yes.

22 Q Okay. We, I think we've provided you a copy
23 of the 1st DCA opinion as part of the handout.

24 Now looking at page 12 of the order, column 2,
25 second full paragraph, beginning with the sentence after

1 the citation, could you read that, those following two
2 sentences?

3 A Sure. "For this policy shift too, the PSC
4 must give a reasonable explanation on remand and adduce
5 supporting evidence, if it can, to justify a change in
6 policy required by no rule or statute. That failing,
7 the PSC should adhere to its prior practice -- practices
8 in calculating used and useful percentages for water
9 transmission and distribution systems and wastewater
10 collection systems serving mixed use areas."

11 Q Okay. Now isn't it correct to say that the
12 court overturned the Commission's decision because the
13 policy shift -- and if you look up at the beginning
14 portion of that paragraph, the court says essentially it
15 was because it was unsupported by expert testimony,
16 documentary opinion, or other evidence appropriate to
17 the nature of the issues involved; correct?

18 A Well, what happened in this case, because I
19 was very familiar and involved in this case, is the
20 Commission had changed its methodology --

21 MS. CHRISTENSEN: Excuse me. Chairman, can I
22 get him to answer yes or no, and then I'm sure he can
23 provide an explanation.

24 THE WITNESS: Could you restate the question?
25 Because I was confused by the question.

1 **MS. CHRISTENSEN:** Certainly.

2 **BY MS. CHRISTENSEN:**

3 **Q** Isn't it true that the court overturned the
4 Commission's decision because its policy, its policy
5 shift, and it states essentially in its order was
6 essentially unsupported by expert testimony, documentary
7 opinion, or other evidence appropriate to the nature of
8 the issue involved?

9 **A** Correct. There is no evidence.

10 **Q** Okay. Would you also agree that the language
11 of the order provides that if the, if the Commission has
12 a reasonable explanation, it may change a prior policy?

13 **MR. MAY:** I'll object to that. She
14 mischaracterized what Mr. Rendell just read from the
15 order. It said a reasonable explanation and adduce
16 supporting evidence.

17 **MS. CHRISTENSEN:** Okay. Then I will reframe
18 my question.

19 **CHAIRMAN GRAHAM:** Please.

20 **BY MS. CHRISTENSEN:**

21 **Q** Would you agree that the language of the order
22 provides that if the PSC has testimony by experts and
23 other appropriate evidence, that it may change its prior
24 policy?

25 **A** Yes. And if I can explain. What happened in

1 this case was the Commission changed the calculation of
2 used and useful without any evidence in the record. The
3 Commission remanded it back to the Commission to either
4 take additional evidence to support its position or have
5 some other decision made.

6 When I was with Staff we discussed what
7 options were available, went to the Commission, said,
8 well, you know, your options are you can reopen the
9 record, have an expert witness provide this testimony
10 and make a decision, or you can accept -- or you can
11 reverse your decision.

12 Southern States worked out a settlement with
13 the Commission, and this is why it's important, is if a
14 court decision is overturned by the -- I mean, I'm
15 sorry, if the Commission decision is overturned by the
16 court, the utility has a right under the GTE case to
17 surcharge its customers.

18 So this case had been on remand -- or appeal
19 for about a year or two. SSU had a right to go back and
20 surcharge its customers. They worked out a settlement
21 with the Commission to accept the decision and create a
22 regulatory asset. That regulatory asset to this day is
23 still in the rates of the customers on Aqua's books.

24 **MS. CHRISTENSEN:** I'm going to object. I
25 think we're getting a little far afield of my question.

1 **CHAIRMAN GRAHAM:** Sure. If you can just
2 answer yes or no and then give a brief answer.

3 **THE WITNESS:** Sure.

4 **CHAIRMAN GRAHAM:** I was going to let him
5 editorialize because I thought maybe you were just
6 getting more information. But as soon as you want to
7 cut it off, just let me know.

8 **BY MS. CHRISTENSEN:**

9 **Q** Okay. And really nothing in that explanation
10 changes the fact that the court said that as long as you
11 adduce proper evidence at a hearing, that the Commission
12 can change its policy based on that evidence adduced at
13 the hearing; is that correct?

14 **A** That's correct. The Commission can change
15 policy any time based on evidence.

16 **Q** Okay. All right. Let me take you to page 21
17 of your testimony, lines 1 through 7. In that -- in
18 your direct testimony you state, "The Commission
19 approved salary increases in Water Management Services,
20 Inc., case and the Labrador rate case." And I think
21 we've provided, I think we've provided you with a copy
22 of the protest that we had in that case, in Labrador.

23 Now is it correct to say that the Office of
24 Public Counsel protested the order that you cited in
25 that case -- in your testimony; correct?

1 A Based on this document, that is correct.

2 Q And looking at, specifically at the protest,
3 you would agree, based under the operating system,
4 operating statements section of the protest, one of the
5 specific issues protested was salary, benefits, payroll
6 taxes; correct?

7 A Correct.

8 Q And that protest specifically states that
9 salaries, benefits, and payroll taxes are especially
10 excessive, particularly in light of current economic
11 conditions; correct?

12 A That is what it states.

13 Q Okay. Now let me direct you to the following
14 document that has Order No. 09-0711. You have that in
15 front of you?

16 A I do.

17 Q And I want to direct your attention to page 2
18 of the order, looking at the footnotes, Footnote 3. Can
19 you read Footnote 3 into the record, please.

20 A Sure. "The parties do not agree on the
21 calculation of the appropriate amount for salaries and
22 benefits, and the amount of \$125,288 listed in the PAA
23 order shall have no precedential value."

24 Q Okay. Thank you. Now regarding the Waste
25 Management case, and I believe that's the next order

1 that we'll refer to, and that's PSC-11-0010-SC-WU.

2 (Pause.)

3 Okay. Let me direct you to page 20 of the
4 order. Okay. Okay. In there -- okay. Would you agree
5 that the reason that the employee received a 30%
6 increase was because she became certificated, because
7 one of the witnesses --

8 A Apparently the company witness Brown had
9 indicated that in his testimony.

10 Q And you would agree that that is not in and of
11 itself a cost of living increase; correct?

12 A No, and neither is ours. Ours is not a cost
13 of living increase either.

14 Q And were you aware in this order that the
15 adjustment was made to reduce the increase that was
16 requested in the test year to a more reasonable 3%
17 level?

18 A That's my understanding. Correct.

19 Q Okay. All right. Let me have you turn to
20 page 21, I think you may already be there, but 21 of
21 your direct testimony.

22 A Yes.

23 Q Lines 11 through 13.

24 A Correct.

25 Q And there you state that the Commission has

1 recognized that AUF was entitled to give its employees a
2 cost of living increase in Order No. PSC-09-0385-FOF; is
3 that correct?

4 A That's what I state.

5 Q And the prior order included cost of living
6 increases for 2007; correct?

7 A There is a normalization for 2007 and a pro
8 forma for 2008.

9 Q Okay. So that would be two salary increases
10 that were included in the last rate case?

11 A Correct. There was a normalization of one
12 which had already occurred, and then there's a pro forma
13 for the one that went into effect in '08.

14 Q Okay. And would it be true that the pro forma
15 adjustments in the Aqua MFRs are for 2010 and 2011?

16 A There's a normalization for the historical
17 year to normalize the increase that went in effect
18 during that year, and there's a pro forma for the
19 following year.

20 Q Okay. So that would -- those would be the
21 years 2010 and 2011; correct?

22 A Correct. But the increases are, are awarded
23 in April of each year.

24 Q Okay. Let me turn your attention to Exhibit
25 308. Okay. That's entitled Social Security Cost of

1 Living Adjustments; correct?

2 A Correct.

3 Q Okay. And you would agree that there were no
4 cost of living adjustments granted for Social Security
5 in 2009?

6 A Correct.

7 Q And there was no cost of living adjustment for
8 Social Security in 2010; correct?

9 A That's correct.

10 Q Okay. And you -- if you're aware, you would
11 agree that the State of Florida budget has not given
12 state employees a cost of living increase for the last
13 five years?

14 A I can't verify if it's been five years. But I
15 do know that there has not been an increase given to
16 state employees for quite some time.

17 Q Okay. Let me turn your attention to page 22
18 of your testimony, lines 2 through 7. And you state
19 that the requested market-based salary increases are
20 based on a market study done by -- is that Saje
21 Consulting Group?

22 A I believe it's Saje.

23 Q Saje Consulting Group, Inc., using 2007 market
24 information; correct?

25 A That is correct.

1 Q So it would be fair to say the study does not
2 include an analysis of unemployment for the period from
3 2007 through 2011?

4 A I don't believe that's what the subject matter
5 of this, what this study was, so I think I can agree to
6 that.

7 Q Okay. Now referencing you to Exhibit 309, you
8 would agree, subject to check, that the Bureau of Labor
9 Statistics shows that the Florida unemployment rate at
10 the end of 2010 was 12%; correct?

11 A Which year?

12 Q 2010, December.

13 A Oh, correct. I'm sorry.

14 Q Okay. So you agree that the unemployment rate
15 is 12% as of that December 2010 date; correct?

16 A That's what this document indicates.

17 Q Okay. And at the end of 2007, you would agree
18 that the unemployment rate was 4.7%; correct?

19 A Again, that's what this document indicates.

20 Q So wouldn't you agree that the fact that there
21 are significantly more people out of work and looking
22 for jobs should be considered in a market study?

23 A I believe market studies look at what the
24 prevailing rate is for different categories of
25 employee -- employees throughout the market in order for

1 utilities, or any, any business to attract and retain
2 employees. To my knowledge, although I don't do market
3 studies, I don't think that's part of the analysis in a
4 market study.

5 Q Well, if I understood your explanation
6 correctly, you did state that it was based on what the
7 market was when the study was done, and that would be
8 influenced by what the market conditions are; correct?

9 A I don't think I can agree to that.

10 Q Okay. So your -- is it your testimony today
11 that the conditions of the marketplace and, and what --
12 how readily or not readily available jobs are has no
13 influence on a market study in your opinion?

14 A I don't believe it does.

15 Q Okay. Now you are aware that affordability is
16 an issue in this docket; correct?

17 A I think that was -- I believe that was struck.
18 It was moved to the rate structure. So I think it's a
19 rate structure issue.

20 Q You would agree it still remains,
21 affordability of the rates still remains an issue in
22 this case; correct?

23 A When establishing rate structure, I would
24 agree with that.

25 Q I don't -- I think the issue actually as

1 reworded, are rates affordable?

2 A Within the confines of the statute.

3 Q Well, you would agree that Aqua's rates should
4 be fair and reasonable for its customers in Florida;
5 correct?

6 A Correct. That's what the statute says.

7 Q And you would also agree that the statute, the
8 PSC rules, and prior court cases require that those
9 rates be fair and reasonable; correct?

10 A Fair, reasonable, and not unduly
11 discriminatory.

12 Q Okay. To your knowledge, has Aqua conducted
13 any studies to quantify issues, the issue of the
14 affordability of its rates in Florida?

15 A To my knowledge, Aqua has not. I don't
16 believe affordability is defined in the statutes or the
17 rules. I know that the Commission has looked at
18 affordability in rate structures in previous dockets
19 dating back to 1993 and as recent as 1996. And we have
20 attempted to address it through our rate structure, as
21 I've indicated on page 28 of my testimony.

22 Q Would it be correct to say that Aqua has a
23 policy to seek rate increases in its jurisdictions as
24 often as they can in order to improve the company's
25 profits?

1 A Absolutely not.

2 Q Has Aqua performed or paid for any studies
3 relating to its rates as a percentage of household
4 income?

5 A I don't believe we performed that study. I
6 believe there are studies out there, which I presented
7 to the Commission at their workshop. But Aqua has not
8 personally done that study.

9 Q Has Aqua performed any or paid for any studies
10 relating to its rate -- relating its rates in relation
11 to poverty levels?

12 A Not to my knowledge.

13 Q Has Aqua or does Aqua keep data and analyze
14 the occupancy rates in their systems?

15 A We know when we lose customers. I don't -- we
16 don't have the data to determine occupancy rates of
17 apartments or mobile home parks or houses. We just can
18 track our customers.

19 Q Okay. Has Aqua analyzed or done any sort of
20 study to determine whether or not there's a connection
21 between its rates and the occupancy levels?

22 A I don't believe those two are related in any
23 way.

24 Q Have you conducted any studies to make that
25 conclusion on which you base that conclusion?

1 A Personally I have not conducted a study. It's
2 just based on my experience.

3 Q Okay. Does Aqua have a forecast of projected
4 system growth for every system that you own?

5 A Actually they're declining, so the growth is
6 either zero or negative.

7 Q Does Aqua include negative growth in your
8 forecast model?

9 A I'm not aware. I don't do budget forecasts.

10 Q Have you performed any elasticity studies for
11 Aqua?

12 A We do -- we did in the last rate case as well
13 as in this rate case. We have a regression adjustment
14 which has been approved in both rate cases.

15 Q All right. Do you know what a demand curve
16 is?

17 A A what curve?

18 Q Demand curve?

19 A I'm aware of the concept.

20 Q Okay. Okay. Can you define price elasticity?

21 A Sure. As the price goes up on a commodity,
22 whether it be water, gas, the consumption will drop in
23 response to that increase in price.

24 Q Okay. Does Aqua assume that all of its
25 customers will continue to get water from Aqua no matter

1 what the rates are?

2 A Well, we have seen our consumption drop, if
3 that's what you're getting at. I mean, we have
4 certificated areas which we're required by statute to
5 provide that service.

6 Q So you would agree that at some point in the
7 demand curve customers could actually stop buying water
8 from Aqua and sink their own wells or buy water
9 elsewhere; would that be correct?

10 A If it's allowed by the county or the local
11 government to put in potable water. We have seen
12 significant installation of irrigation water, but in
13 that particular county, that county does not allow
14 potable wells where a centralized water system is
15 located.

16 Q And as a general principle, you would agree
17 that the usage is price elastic; in other words, the
18 higher the price, the lower the usage?

19 A Just to a certain level. The -- it's the
20 discretionary usage that's elastic, that's under the
21 price elasticity. The nondiscretionary, you're still --
22 you still have to take showers and brush your teeth and
23 cook for your family, so that's less elastic. And our
24 consumption has dropped, as I indicated, you know, our
25 average consumption is 46 -- just over 4,600 gallons,

1 which is extremely low.

2 Q Well, you would agree that some of the
3 customers have testified that they've even stopped using
4 the water for showering and cooking and other sort of
5 normal type uses; correct?

6 A I believe the customers testified they've cut
7 back.

8 Q Okay. And conversely, you would agree that
9 the lower the price, generally the greater the usage
10 would be; correct?

11 A As a general concept. And that's what we
12 experienced. The systems prior to '08 had extremely low
13 rates and had extremely high consumption. So once the
14 rates went into effect after 15 years in 2008, the
15 consumption dropped dramatically.

16 MS. CHRISTENSEN: Okay. I have no further
17 questions.

18 CHAIRMAN GRAHAM: Ms. Bradley.

19 MS. BRADLEY: No questions.

20 CHAIRMAN GRAHAM: YES. Go ahead.

21 EXAMINATION

22 BY MR. McBRIDE:

23 Q Good morning, Mr. Rendell.

24 A Good morning.

25 Q You state on page 28, line 10 to 16 of your

1 testimony, "Question, What would an average AUF customer
2 pay for water and wastewater services under AUF's
3 proposed uniform rate structure?"

4 You answer, "On a monthly basis, the average
5 AUF customer uses approximately 4,680 gallons of water,
6 3,760 gallons of wastewater."

7 You go on to state that the average bill would
8 be 48.03 per month for water, 73.70 for wastewater.

9 And then you conclude, "Thus, AUF's proposed
10 uniform rate structure addresses affordability."

11 How exactly does an average water bill of
12 \$48.03, an average wastewater bill of \$73.70 address
13 affordability?

14 A Well --

15 MR. MAY: Excuse me. I'd like to interpose an
16 objection. Could counsel provide his definition of
17 affordability?

18 MR. McBRIDE: The definition that he's using
19 in his testimony would be fine.

20 MR. MAY: Okay.

21 THE WITNESS: I'm sorry. I missed the last
22 part. Go ahead and answer it?

23 MR. MAY: I think he said use the definition
24 that you're using in your testimony.

25 THE WITNESS: Okay. Sure. Sure. I'd be glad

1 to.

2 That, that paragraph was an illustration of
3 what our proposed uniform rates would have produced,
4 which, interesting enough for your community, it would
5 have decreased the water bills. But what I relied on is
6 my experience at the Commission. The Commission did a
7 year and a half study in a formal docket, 930880, on
8 rate structures and affordability. They also looked at
9 rate structures in 960495. They looked at numerous
10 different type of rate structures, if it's affected by
11 treatment type, by level of CIC.

12 And they concluded in those dockets that they
13 did not -- those factors did not have an effect on rate
14 structure and that uniform rates is affordable even for
15 customers at the poverty level. There's actually orders
16 that have quoted that.

17 **BY MR. McBRIDE:**

18 Q If uniform rates were imposed, as AUF
19 proposes, wouldn't some people's rates, some customers'
20 rates go up while others would go down?

21 A Of course.

22 Q So would you agree that it would be less
23 affordable for the customers whose rates would go up?

24 A I would not agree with that. I think the
25 uniform rates provide a tool for the Commission to use

1 if they, if they elect to do so, to address
2 affordability to all customers across the state.

3 Q But you agree that some customers' bills would
4 go up under the uniform rate structure?

5 A Yes. Correct.

6 Q Okay. You testified, and I want to clarify,
7 that AUF has not done any analysis of the cost of water
8 and wastewater service affordability across different
9 counties in the State of Florida?

10 A Well, again, there is no definition of
11 affordability. That's a subjective term. You would
12 have to look at each individual customer's
13 circumstances, whether they're seasonal, if they have
14 two homes, the number of televisions, their income
15 level. I mean, we have not conducted that type of
16 study. I'm relying on past Commission decisions and my
17 experience in regulation over the last 24 years.

18 Q Has AUF conducted any studies or analysis of
19 the average cost of water and wastewater service
20 provided by other utilities in counties where AUF
21 operates?

22 A You cannot make that comparison. Counties and
23 cities operate completely different than regulated --

24 Q If you can just give a yes or no before
25 answering, please.

1 A Well, you can't do that comparison, so the
2 answer would be no.

3 Q So it has not been done? Has AUF conducted
4 any studies as to the cost of housing in any of the
5 counties in which it provides water and wastewater
6 service?

7 A No.

8 Q So you don't know then what the average cost
9 of water and wastewater rates are in, say, Alachua
10 County or Palm Beach County for other utilities?

11 A Not for other utilities in those two counties,
12 no.

13 Q And you wouldn't know what the average cost of
14 housing is in Alachua or Palm Beach County or any other
15 county where AUF operates?

16 A I'm sure it varies, so, no, I don't.

17 Q Is it your opinion that it's not relevant?

18 A To establishing the revenue requirement and
19 the rates in this case? No, it's not.

20 Q Entered into evidence yesterday as Exhibit 287
21 is the 2010 annual report by Aqua America, Inc., and its
22 subsidiaries. On page 2 of that report, under Industry
23 Mission, it states, "The mission of the investor-owned
24 water utility industry is to provide quality and
25 reliable water service at an affordable price to

1 customers."

2 Does the definition of affordable as stated in
3 this industry statement differ from your definition of
4 affordable?

5 A I don't have an opinion on that. Sorry. I
6 can't answer yes or no.

7 Q So backing away from your definition of
8 affordability, AUF does not endeavor to know whether its
9 customers can afford to make its payments, using the
10 common knowledge definition of affordability?

11 A Well, I think I would disagree with that. We
12 strive to reduce all operating costs. This case is not
13 driven by expenses. It is driven exclusively by capital
14 costs. Our expenses have gone down, the ones within our
15 control. The uncontrolled ones have gone up. But,
16 again, it's beyond our control.

17 But we strive to reduce costs to keep the
18 rates as low as possible and to stay out of rate cases
19 as long as possible. So I cannot agree with your
20 statement.

21 Q Because you testified that AUF does not study
22 the average cost of water and wastewater rates in
23 different counties where it operates, you're not in a
24 position to dispute the testimony of YES witness Shawn
25 Harpin, who stated in his testimony that the average

1 water and wastewater price at Arredondo Farms is \$76
2 higher per month than in another existing utility
3 operating within the Gainesville market; is that
4 correct?

5 A Well, without knowing who he's referring to, I
6 can't agree to that.

7 Q Okay. So you're in no position to dispute it?

8 A I'm in no position to agree or dispute it.

9 Q Okay. Have you read the deposition transcript
10 of AUF employee Steve Grisham?

11 A I have not read the transcript, no.

12 Q Okay. Do you have any reason to disagree with
13 your employee's testimony that he receives more
14 complaints regarding the high cost of water at Arredondo
15 Farms than any other -- anywhere else in Alachua County
16 that he services? And that reference is on page 64.

17 A I have no reason to disagree with it or agree
18 with it.

19 Q And you testified that you attended all of the
20 statewide customer service hearings that were held in
21 this case?

22 A Every single one of them.

23 Q Okay. Including the Gainesville hearing then?

24 A Every single one of them.

25 Q Okay. Do you recall Ms. Cassandra Stade's

1 testimony, page 195 of the Gainesville transcript, that
2 she, because of the cost of AUF's service, she only
3 bathes once or twice a week?

4 A I don't have the transcript in front of me,
5 but I've heard those comments.

6 Q Did you hear those comments at only the
7 Gainesville hearing or did you hear them throughout the
8 state?

9 A I may have heard them at two or three of the
10 service hearings.

11 MR. McBRIDE: I have no further questions.
12 Thank you.

13 CHAIRMAN GRAHAM: Okay. We're going to take a
14 five-minute recess and then, Commissioners, if you have
15 any questions. We'll take a five-minute recess.

16 Oh, I'm sorry. Mr. Richards.

17 MR. RICHARDS: Yeah. I'm going to have some
18 questions.

19 CHAIRMAN GRAHAM: Before the recess,
20 Mr. Richardson -- Mr. Richards, please.

21 MR. RICHARDS: You want me to go ahead now?

22 CHAIRMAN GRAHAM: Yes.

23 MR. RICHARDS: There's a couple of things I'd
24 like to pass out.

25 CHAIRMAN GRAHAM: All right. Let's just go

1 ahead and take that five minutes then, and we'll let you
2 go after that.

3 **MR. RICHARDS:** Okay.

4 **CHAIRMAN GRAHAM:** Thanks.

5 (Recess taken.)

6 Mr. Richards.

7 **MR. RICHARDS:** Thank you. Of the documents
8 passed out, only one needs to be marked as an exhibit,
9 the one with the yellow cover page. There's actually a
10 typo on it, the document description. It's the
11 October 2008 testimony of Paul Stallcup. I believe that
12 would be Exhibit 310.

13 **CHAIRMAN GRAHAM:** I think we're -- you're
14 correct. It's 310.

15 (Exhibit 310 marked for identification.)

16 **MR. RICHARDS:** Thank you. The other thing
17 that was passed out was an excerpt from the June PAA
18 order.

19 **CHAIRMAN GRAHAM:** We'll have a short title for
20 this being -- the one, 310, short title would be
21 October 2008 Testimony of Paul Stallcup.

22 Mr. Richards, please.

23 **EXAMINATION**

24 **BY MR. RICHARDS:**

25 Q Thank you. Good morning, by two minutes. I

1 wanted to ask you a few questions about your testimony
2 on page 20. You talk about the necessity for a cost of
3 living increase. Has, has Aqua studied its retention
4 rates? Are you having problems retaining employees at
5 your current salary levels?

6 A From my experience with the company, yes, we
7 are having problems retaining employees.

8 Q Do you know whether those retention rates
9 compare, how they compare with other utilities?

10 A I do not.

11 Q Okay. And also you talk about the
12 market-based salary increase. And I had some questions
13 regarding that, because I was looking at the
14 confidential Exhibit No. 3. And I see that the market
15 study salary ranges seem to be based solely on the job
16 description. Do you know whether there was any analysis
17 of the geography taken into account, the location of the
18 employee?

19 A I believe it was based on the type of position
20 that was for the different classifications of those
21 employees. So I'm not aware if it was based on
22 location.

23 I am aware that the Commission Staff looked at
24 this when they did their own performance, their own
25 analysis based on the AWWA market study. They actually

1 calculated a higher amount than what we had proposed and
2 recommended that it should be approved.

3 Q And so the salary range is based on the job
4 description, so that employees in, say, Palm Beach would
5 be paid the same as employees in Alachua County?

6 A Within AUF, based on their job description,
7 correct.

8 Q Yeah. So the cost of living of the location
9 of the employee is not taken into account.

10 A That would be, that would be correct.

11 Q Okay. I'd like to direct your attention to
12 page 27 of your direct testimony. Just going back to
13 the confidential exhibit for one -- I noticed on -- you
14 have the years of experience, and for a couple of them,
15 some very long-term employees are due for some very
16 large increases. Number 36, the ideal increase -- I
17 guess we're not supposed to say the number, but you can
18 see that for number 36 the increase is substantial, and
19 his years of service are substantial also. So it
20 doesn't look like you've had a problem retaining that
21 employee. Do you believe that that's appropriate, such
22 a large increase?

23 A I do, based on the market study. It just
24 indicates that this employee has been under the
25 employment of Aqua for a long time and being underpaid.

1 Q Okay. All right. Good. If you can go to
2 page 27. On line, on line 4, you use the term "rate
3 shock."

4 A Correct.

5 Q Do you have a number for rate shock? Is there
6 a certain level of rate increase that would meet that
7 definition of rate shock as you use it there?

8 A What rate shot -- sorry -- rate shock is, is,
9 there's two ways. One is if there's a substantial
10 capital investment that needs to be made in a small
11 system with very few customers and you come in for a
12 rate case, and you have anywhere, you know, 70%
13 increase to, I've personally seen 131, 200% increases to
14 customers throughout the State of Florida because of
15 different reasons.

16 One is there's a large investment for a small
17 system and there's not that many customers to spread it
18 over. The other is if a company stays out of a rate
19 case for an extended period of time and they don't come
20 in for, say, seven or ten years, and then the rate case,
21 the rate increase necessary to cover the operating costs
22 can cause a very large increase in rates.

23 So what uniform rates do, in any type of
24 uniform rate, including the current cap band, is it
25 consolidates systems to spread the cost over a larger

1 number of customers to mitigate rate shock, to enable
2 rate stability, and to address affordability.

3 Q But you don't have a specific number?

4 A No. I think any very large increase in rates
5 could be considered a rate shock.

6 Q Would, would 50% increase in rates be very
7 large?

8 A It could, depending on the, the rates prior to
9 the rate increase and how long that rate had been
10 installed. If it was a low rate and that rate has been
11 around for, say, seven or ten years and the customers
12 were used to using a lot of water or wastewater and
13 having low bills, a 50% increase in rates could be
14 considered a rate shock to those customers.

15 Q All right. If you could take a look at the
16 excerpt of the PAA order that was passed out, page 101.

17 A Page which? Sorry.

18 Q 101.

19 A I'm there.

20 Q So in that table there it talks about the
21 Fairway system. Their current bill is \$19.98, and under
22 your proposed uniform rate that would go up
23 substantially. The uniform rate would go up to, I
24 believe, \$50. Would that be considered rate shock?

25 A It could be. But I would point out that this

1 is the Commission's table and it's based on 7,000
2 gallons, and that is not the average consumption for our
3 systems throughout the state. It's less than 5,000
4 gallons. So obviously that, that number would be lower
5 based on average usage.

6 Q Right. So it would actually be lower than
7 \$19, and the number I was using -- I didn't explain, but
8 at 5,000 gallons, under your proposed uniform rate, the
9 water bill would be \$50; is that correct?

10 A Correct. Correct.

11 Q So that's a substantial increase over 100%.

12 A For this particular --

13 Q For that --

14 A For this particular system --

15 Q Right.

16 A -- which has not come in for a rate case
17 before, that would be correct.

18 Q And for the Jasmine Lakes system, which is in
19 Pasco County, under their current rate band, the usage,
20 I believe, would be \$2 per 1,000 gallons under rate band
21 1. So their bill would be \$24.13, is that correct, for
22 5,000 gallons?

23 A Prior to the filing, water rate band 1 would
24 have a bill of \$24.13 for 5,000 gallons. Is that what
25 you asked?

1 Q Yes.

2 A Yes.

3 Q And so then under the uniform rate you're
4 proposing, that bill would go to \$50 for that same
5 5,000 gallons.

6 A Subject to check, I would agree. But also
7 Zephyr Shores, also in Pasco County, their bills would
8 go down.

9 Q Right.

10 A The water bill.

11 Q But is it true that the wastewater bill is
12 going up --

13 A Correct.

14 Q -- regardless for all bands?

15 A Correct.

16 Q Do you know the percentage of that increase?

17 A It would depend on the individual system and
18 the individual usage. When the Commission establishes
19 percentage increases, it does so on a revenue
20 requirement totality basis, not on individual customers
21 or not on individual systems. So, no, I do not.

22 Q Okay. Now you mentioned earlier on
23 questioning from YES that you agreed that under this
24 current system there's certain systems that are going to
25 be paying more than they would on a standalone basis,

1 and there's certain systems paying less with a certain
2 amount of subsidization.

3 A When you first go to uniform rates, that is a
4 true statement. But after that, in the long run that no
5 longer occurs. It's the first step to the uniform. And
6 I think that's one of the reasons the Commission has
7 stepped towards that gradually through the use of cap
8 bands.

9 Q With each one of those steps, the amount of
10 subsidization that those systems that are subsidizing
11 the higher cost systems, the amount of subsidization
12 increases with each step.

13 A It would actually decrease in each step.
14 That's the whole purpose of stepping, is that those
15 subsidies are gradual so that you don't have a, an
16 initial subsidy, which is a guideline, it's not set by
17 any statute or rule, but the whole purpose of stepping
18 towards the uniform rate through different, different
19 types of rate structure is to minimize that.

20 Q Well, but for the, for the lower cost systems,
21 such as Jasmine Lakes, where we already said that under
22 the current rate they're paying about \$24, under the
23 proposed, the PAA order, that would go up, the water
24 rate would go up a certain amount, as the Staff has
25 recommended going from four rates to two rates. So

1 those lower cost systems, their, their water rates are
2 going up; that's correct?

3 A Correct. Their subsidy level goes up, and the
4 subsidized, the ones receiving subsidies, like Zephyr
5 Shores, goes down.

6 Q Right. And so then if you went from Staff's
7 recommendation of two bands to your uniform rate, that
8 amount of subsidization for Jasmine Lakes goes up again.

9 A Well, once you have consolidated rates, there
10 is no such thing as standalone rates anymore. It cannot
11 be determined. And so you're looking at the new, the
12 new consolidated rate band it would be in, which now
13 there's two bands to the uniform. So that subsidy level
14 would be significantly less than if you were to compare
15 it to the standalone.

16 Q But the rate is going up, the water rate for a
17 system such as Jasmine Lakes. It's \$24 currently.
18 Under the proposed Staff proposal, it would go to \$37
19 for 5,000 gallons, the usage rate at \$3.59 per 1,000
20 gallons. And then your uniform rate goes all the way up
21 to \$6.49, is that correct, for the 1,000 gallons?

22 A I would accept that, subject to check. I
23 don't have the order in front of me. I apologize. I
24 left it in my seat. But, I mean, I would accept those
25 numbers, subject to check. But, you know, upon

1 verification.

2 Q But you, you would agree that the current
3 usage rate for rate band 1 is \$2 per 1,000 gallons,
4 under 5,000?

5 A Under, under the PAA rates or the pre-PAA
6 rates or the interim rates? There's been so many rate
7 changes in the last couple of years.

8 Q Right. The pre-PAA rates.

9 A Okay. For Jasmine Lakes?

10 Q Yeah.

11 A The rates prior to filing.

12 Q Rate band 1, yeah.

13 A For how many gallons?

14 Q Under 5,000 gallons, the per 1,000 gallon
15 rate.

16 A The rates -- oh, you want the actual gallonage
17 rate?

18 Q Yeah.

19 A Prior to filing, they had a banding or an
20 inclining block rate based on zero to 5,000 gallons.
21 That first one was \$2.

22 Q Right.

23 A 5,001 to 10,000 was 2.51, and over 10,000
24 gallons was 6.01. And those inclining blocks have
25 changed based on the PAA rates.

1 Q But the average usage for an Aqua customer is
2 below 5,000 gallons, so let's just talk about that rate,
3 which you said is, currently is \$2.

4 A It's not currently \$2, but prior to the
5 filing.

6 Q Okay. Excuse me.

7 A Yes.

8 Q Prior to the filing it was \$2. And your
9 proposed uniform rate would push that to \$6.49.

10 A For the first 6,000 gallons, correct.

11 Q Right. And that would be the average usage.

12 A The average usage for that group is 4,704
13 gallons.

14 Q Right. So they're likely to be charged that.
15 So their overall bill is going to go to from \$24 to \$50,
16 a 100% increase, roughly.

17 A From 23.54 to 48.19.

18 Q Okay. Also, you -- on line 7, page 27 of your
19 testimony, you say that uniform rate structures also
20 address system efficiency. Could you expand on that a
21 little bit, what efficiencies are improved with uniform
22 rates?

23 A Sure. What, what line number? I'm sorry.

24 Q Line 7, page 27.

25 A Well, uniform rates address many things. It

1 allows utilities to make decisions on where to invest
2 different capital investment so as to minimize the rate,
3 the rate shock to the customers. It allows us to -- one
4 of the things that consolidating the accounting system
5 allows us to do is we have less transactions for our
6 accountants, have to enter less transactions. So, for
7 instance, if, if an invoice came in and it applied to
8 two or three systems and those systems are now one rate
9 band, they only have to enter that once, where if there
10 were four systems on that invoice, they'd have to enter
11 it four times. So there are efficiencies, operational
12 efficiencies. There's, you know, there's numerous
13 efficiencies that uniform rates and consolidation help
14 to establish.

15 Q Have you quantified those efficiencies? Do
16 you know that, okay, if we're going to go to uniform
17 rates, we're going to save X dollars?

18 A We looked at the transactional, the
19 operational, that through discovery we supplied
20 discovery answers. We haven't quantified the actual
21 cost savings to go into uniform rate, but I think it's
22 important to, for the customers on a rate standpoint.

23 Q Okay. On that same page, down on line 13, 14,
24 you mentioned the EPA recommending over 335 billion in
25 infrastructure improvements. I was just wondering what

1 the relevance of that large number is to Aqua.

2 A Sure. What, what the EPA looks at each year
3 is it looks at nationwide the critical infrastructure
4 needs of water and wastewater utilities. That's
5 nationwide for cities, counties, regulated. What it
6 recognized is that many of these systems were installed
7 numerous years ago, like 40, 50, 60 years ago, and
8 they're in need of critical capital investment so that
9 you can replace lines. We have very old lines here in
10 Florida. We have saltwater infiltration.

11 So it's basically looking at what the
12 infrastructure needs are for the future and making
13 utilities aware, both cities, counties, and regulated,
14 that they need to start planning for this capital
15 investment and start forecasting how much they're going
16 to need and what the rate impact may be and start
17 planning for future rate cases to cover these critical
18 infrastructure needs.

19 Q Now do you know if Aqua has quantified its
20 infrastructure needs?

21 A We have a five-year capital budget which is
22 maintained.

23 Q Okay. Do you know what that is in the number?

24 A Off the top of my head, I do not.

25 Q I wanted to direct your attention to page 28

1 where you're talking about the uniform rates. And
2 during OPC's examination they passed out a copy of the
3 Southern States Utilities case.

4 A The court case?

5 Q Right.

6 A Yes.

7 Q DCA opinion. On page 8. Before we were
8 talking about Jasmine Lakes and under your proposal
9 would incur close to a 100% increase in its water rates.
10 On page, page 8, the first column, first full paragraph,
11 starts out with nothing inherent in the cap band
12 methodology. In that case the court found that there
13 was only going to be a 7% increase in each of the
14 systems' rates.

15 Now would you agree that the percentage of the
16 increase is a factor in whether the uniform rates should
17 be approved by the Commission?

18 A It was a factor that the Commission at the
19 time considered because at the time there was the Citrus
20 County case, which established that uniform rates could
21 only be established if there's a, an interconnection
22 amongst counties. This court case overturned that, and
23 basically they said that the Commission, overlooking its
24 shoulder at the Citrus case, went to an intermediate cap
25 band, but it had the statutory authority to approve a

1 uniform rate, which did not run afoul of Florida law.

2 So in that particular instance the court
3 recognized that the Commission considered the subsidy
4 levels when it established, first established the cap
5 band rate structure.

6 Q My concern is regarding fairness and
7 discrimination against certain customers. And this
8 court case talked about there wasn't discrimination,
9 because the increase was only 7%. And there was only --
10 in the next sentence they talk about only a modest
11 deviation from the pure cost of service basis. Whereas
12 in this case we, there's at least one example where the
13 increase could be as much as 100%.

14 My concern is do you think at some point your,
15 your rates become discriminatory based on the percentage
16 increase?

17 A Absolutely not. The Commission has looked at
18 this numerous times and has stated that the benefits of
19 uniform rates outweigh the cons.

20 Q And there's -- you give no credence to the
21 percentage of that increase and the impact to the
22 individual customer --

23 A I believe --

24 Q -- at some point?

25 A No. I believe in the long run the customers

1 benefit.

2 Q So going back to page 101 of the PAA order, in
3 the paragraph below that table it talks about the
4 customers in rate band 4, Breeze Hill and Peace River,
5 two systems that haven't had rates established prior.
6 Would you agree that the standalone bills are
7 significantly greater than the approved rate cap
8 threshold of \$65?

9 A If the standalone rates would have been
10 approved, yes, I agree with that. Certain ones.

11 Q Now did Aqua do any investigation of those
12 rates, of those two systems, Breeze Hill and Peace
13 River, before they made that purchase?

14 A I don't understand what you mean, an
15 investigation of the rates.

16 Q Did you -- did Aqua know going into that
17 purchase that these two systems would not meet the
18 approved rate cap threshold, that their standalone rates
19 were that high?

20 A Well, Peace River was not regulated by the
21 Commission, so they do not fall under the cap. They
22 were standalone. And Breeze Hill was a standalone,
23 which had had two previous rate cases before the
24 Commission. So the, one of the things we do look at and
25 we've supplied to the Commission Staff at their request

1 on the last two acquisitions is what the impact to the
2 existing customers would be. And we've established that
3 these acquisitions actually lower the cost -- the rates
4 to the existing customers.

5 Q But if, if they don't meet the rate cap
6 threshold, those two systems, then your current
7 customers have to subsidize their rates; isn't that
8 correct?

9 A Well, we proposed a uniform rate. The rate
10 cap is only a guideline that the Commission can use to
11 establish rates. There is nothing in statutes, rules,
12 or -- that mandates that there's a rate cap. It's only
13 a tool to establish the cap band. We in both last,
14 last, the 2008 case as well as this case recommended
15 uniform rates, not a cap band. So a cap doesn't come
16 into play in uniform rates at all.

17 Q But when you're looking at these new systems
18 coming in, if they can't meet that threshold, your
19 current customers have to subsidize their rates.

20 A Again, the analysis that I performed for the
21 staff showed that the existing customers' rates actually
22 go down, not up.

23 Q They're going down from what?

24 A When you add in -- the last two that we looked
25 at, I think it was Fountain Lakes and the one that was

1 just approved, Jumper Creek, when you bring in their
2 revenue requirement and their customers and spread the
3 costs, the resulting rates would have went down with
4 those acquisitions, not up, to the existing customers.

5 Q But the overall rates are going up?

6 A To which system?

7 Q To your current customers.

8 A Potentially in the next rate case.

9 Q I mean, in this current case at least the
10 wastewater across the board is going up for everybody,
11 wastewater rates.

12 A I believe, I believe that's correct.

13 MR. RICHARDS: I have no further questions.

14 CHAIRMAN GRAHAM: Thank you, sir.

15 Staff.

16 MS. BENNETT: Before I start asking questions,
17 Ms. Christensen was going to check. We have an exhibit,
18 177, that was listed on our Comprehensive Exhibit List,
19 and she had no concerns with all but two of the
20 interrogatories. She was checking on those last two,
21 and I wanted to inquire if we could stipulate those into
22 the record.

23 MS. CHRISTENSEN: Well, I know we're going to
24 have some questions on them for rebuttal testimony, but
25 if Staff wants to use them as part of direct testimony,

1 that's -- obviously we have no objection to that.

2 MS. BENNETT: Then when it's appropriate, we
3 will put 177 into the record. And I don't have any
4 questions for him on those interrogatories.

5 EXAMINATION

6 BY MS. BENNETT:

7 Q I did want to talk with you a little bit
8 about -- you were in the room yesterday when
9 Mr. Szczygiel and Mr. Luitweiler testified; is that
10 correct?

11 A That's correct.

12 Q And we talked a little bit with both of those
13 witnesses about meter replacement. Do you recall that
14 discussion?

15 A I do.

16 Q I think Mr. Szczygiel passed off a question to
17 both you and Mr. Luitweiler, so I'm going to ask to see
18 if this is within your scope of knowledge. And that is
19 has AUF performed a cost benefit analysis to justify the
20 meter replacement program that was undertaken?

21 A I can give you my knowledge of what -- of how
22 the meter replacement came about. And I do want to
23 apologize. We were not prepared, since this was not an
24 issue in either the PAA or any of the protests, we
25 haven't had an opportunity to provide any testimony.

1 There's been numerous discovery questions, and we know
2 the auditor has audited. But since it was not an issue,
3 we weren't prepared to bring it up.

4 But the, I think it was an evolving program.
5 The meters that were in place were very old. They were
6 either from the Aqua Source or the Florida Water. They
7 had not either been replaced or tested for numerous
8 years when we purchased it. So we started a pilot
9 project where we're going to install certain systems
10 with these RFs.

11 What we're trying to do is two things. One is
12 to meet our customer service metrics on reducing the
13 number of estimated reads, the number of meters read
14 within the meter read window, reducing the cost to the
15 customers through reducing the number of meter readers,
16 as well as reduce -- eliminating all outside contractors
17 that do meter reads.

18 So I did have occasion to get information from
19 Mr. Jack Lihvarcik, the former President, and he seems
20 to recall that it was in cooperation with the Staff, the
21 Staff, when they, I think it was two rate cases ago,
22 wanted Aqua to test some of the meters, to send them
23 out, get test results, to address customer concerns.
24 There were some concerns if the meters were accurate,
25 why they were getting estimated bills and estimated

1 reads.

2 And in cooperation, or I guess it evolved
3 through that case and the last case that we would go out
4 and replace all the meters to address the customers'
5 concerns, to reduce the number of billing issues or
6 billing concerns, and also to reduce our customer cost.
7 So up front it was going to be a small pilot project and
8 then eventually evolve into the systemwide.

9 But through working with the Commission and
10 coming in for the last rate case and listening to
11 customers' concerns, it was decided to present a pro
12 forma adjustment, which is significantly different than
13 actual costs. Pro forma are requested amounts that we,
14 that a utility anticipates to do, and they supply any
15 support documentation. Unfortunately, as Mr. Szczygiel
16 testified to yesterday, we weren't as efficient as
17 providing the documents necessary to support the total
18 dollar amount.

19 We learned from our mistakes, and in our
20 current rate case for the pro forma we've done a better
21 job of supporting a pro forma. So those meters now have
22 been installed, documented, and audited. So there is a
23 difference between pro forma and actual.

24 Now we have, we have provided ample discovery
25 responses on, you know, what the reduction costs were on

1 the outside services that we eliminated. We actually
2 have eliminated the maintenance group, which resulted in
3 a reduction of salaries. Our salaries are less in this
4 rate case than they were in the last rate case, which
5 was acknowledged by the Commission auditor in their
6 audit.

7 We're able to read the entire state now with
8 two meter readers, who can do the entire state in 12
9 days in a month. So 12 out of -- what is that, 60
10 hours, we can read the entire state. So we have two
11 meter readers that spend 12 days a month to do all the
12 meter readings. So it significantly has cut costs.

13 Q Thank you. That answers my question.

14 I want to move now to some discussions you had
15 with the Office of Public Counsel and Ms. Christensen on
16 elasticity of water. And first I want to make sure that
17 I understand, you're not testifying as an economist; is
18 that correct?

19 A I am not an economist.

20 Q And you'd agree that your answers to
21 Ms. Christensen regarding the elasticity of water are as
22 a layman's understanding of elasticity; is that correct?

23 A A layman's and my experience at the Commission
24 working with the economic forecast group.

25 Q Well, for instance, you stated that, during

1 Ms. Christensen's direct examination, that water was
2 price elastic. Would you agree, subject to check, that
3 water is price inelastic in an economist's terminology?

4 A I would agree, subject to check.

5 Q And isn't it true that when looking at a cap
6 band rate structure, as a rate cap threshold increases,
7 the subsidy and -- subsidy paid decreases?

8 A That's correct.

9 Q Let's assume a move from a rate cap threshold
10 to a -- excuse me -- a rate cap threshold to a lesser
11 uniform rate, the subsidies paid, all things equal, will
12 increase; is that correct?

13 A I would agree. I guess it would depend on
14 what you're comparing the subsidies to. If it's
15 compared to the standalone rate, true standalone, or the
16 subsidies from the previous band that would, that the
17 system was in to where it would move. So it would
18 depend on what you're comparing the subsidies to. But
19 all things being equal, I think I could agree with that.

20 **MS. BENNETT:** That's all the questions I have.

21 **CHAIRMAN GRAHAM:** Commissioners?

22 Commissioner Edgar.

23 **COMMISSIONER EDGAR:** Thank you.

24 Good afternoon.

25 **THE WITNESS:** Good afternoon.

1 **COMMISSIONER EDGAR:** I have just a couple of
2 general questions, and I'm going to be referring to one
3 of the exhibits that was passed out earlier. It's the
4 Aqua 2010 financial data annual report. It's got the --
5 wonderful. Thank you.

6 **CHAIRMAN GRAHAM:** What's the number?

7 **COMMISSIONER EDGAR:** It was Exhibit 287.

8 And, Mr. Rendell, if you'll just turn to
9 page 3. And you'll see there are basically two
10 paragraphs with the entry term rate case management
11 capability.

12 In your response to a question from counsel
13 for YES, you made the statement that the company strives
14 to stay out of rate cases as long as possible.

15 And when you read through this section of this
16 report, beginning about a third of the way down, there
17 are terms such as the objective of our rate case
18 management strategy, timely recovery of increase in
19 costs, pursuing our rate case strategy.

20 Reading this paragraph and some of those
21 terms, and the discussion of a rate case management
22 operational perspective, I'm not sure that that's --
23 this reads completely consistent with the statement you
24 made about striving to stay out of rate cases as long as
25 possible. And I'm just wondering if you could elaborate

1 on that a bit.

2 **THE WITNESS:** Sure. I, I would love to.

3 In order to stay out of rate cases, when you
4 can control your costs that's controllable, you can
5 reduce your costs and you can just spend at the
6 depreciation level that was approved in a previous rate
7 case, and you would have a stable, stable customer
8 group, stable consumption, that would enable a utility
9 to stay out as much as possible.

10 Our utility, honestly, is very frugal. They
11 watch every dime, they cut every cost or expense within
12 their control. They do it quite effectively, I think.
13 Fortunately, there has been -- and I think our MFRs and
14 records show that we have done that through the expense.

15 Unfortunately, a lot of these systems need
16 capital improvements, either for environmental purposes
17 with DEP or through customer concerns in aesthetics
18 where they have hydrogen sulfide, where no other utility
19 in the State of Florida has ever addressed secondary
20 water standards, has even attempted to.

21 So those capital costs unfortunately have
22 driven this rate case, along with the dramatic drop in
23 consumption. I personally from my experience don't view
24 rate cases as a bad thing. I think it borderlines
25 mismanagement if a utility doesn't come in for a rate

1 case. If they stay out too long and they get into
2 financial problems because they did not want to raise
3 the rates, I think that's pretty much mismanagement in
4 my book, is that you need to come in and you need to
5 look at the actual operating costs, either good, bad.
6 If they go up, you know, they need to be recovered. If
7 they go down, that needs to be shared with the
8 customers. So I don't view rate cases as a bad thing.

9 I think it's inherent upon utilities to look
10 at their financial, their financial wherewithal, what
11 needs to be done, and then come in when the time comes
12 that they need have that financial recovery of the cost
13 to provide the service that the customers demand and
14 deserve.

15 **COMMISSIONER EDGAR:** I have one more question
16 about just this section. The last sentence of the
17 second paragraph under that same heading says -- and
18 I'll just read it. "We are currently in nine active
19 rate proceedings in four of our 13 states, proposing an
20 aggregate annualized rate increase of \$14,201."

21 Can you tell me what that, what that term,
22 "aggregate annualized rate increase," means?

23 **THE WITNESS:** The way I --

24 **COMMISSIONER EDGAR:** Or put it in some kind of
25 context, whichever --

1 **THE WITNESS:** Sure. The way I interpret it is
2 they've looked at the nine active rate proceedings and
3 the increase requested in those proceedings, and they've
4 added them up, and that's the aggregate annual rate
5 increase. So they've added the requested increase in
6 those nine different proceedings in four of the states,
7 and that's what the current rate cases are requesting.

8 **COMMISSIONER EDGAR:** I'm going to turn to the
9 next page. And I have two questions referring to --
10 then this discussion here that is headed Growth through
11 Acquisition Strategy. About two-thirds of the way down
12 the first paragraph, there's a sentence that reads, "A
13 growth through acquisition strategy allows us to operate
14 more efficiently by sharing operating expenses over more
15 utility customers and provides new locations for
16 possible future growth."

17 You have discussed this, and I believe other
18 witnesses have as well, but I would still like to ask
19 you again. Using this term, "allows us to operate more
20 efficiently by sharing operating expenses over more
21 utility customers," how does that benefit an individual
22 system, or the customers of an individual system?

23 **THE WITNESS:** Sure. The way it benefits is
24 you have more customers to spread the cost over. So if
25 you have, say, \$100 and you have ten customers, that's

1 \$10 apiece. If you have \$100 -- I mean, 100 customers,
2 that's \$1 apiece. So it allows -- it's economies of
3 scale, it's efficiency, and it allows the operating cost
4 to be spread over a larger number of customers.

5 So growth through acquisition allows for lower
6 rates. You can stay out of rate cases potentially
7 longer because you can add customers and add revenue to
8 cover the fixed costs.

9 **COMMISSIONER EDGAR:** And coming down what
10 would be basically the third paragraph on the page,
11 there's a brief discussion about systems that have
12 recently been sold, and there's a statement that says,
13 "Pursuant to our plan to evaluate and dispose of
14 underperforming utility systems, we sold the following
15 utility systems," and then it lists a few.

16 Can you describe to me how that term
17 "underperforming utility system" is defined or, in
18 reverse, what criteria are used to determine if a system
19 is underperforming?

20 **THE WITNESS:** I can give you my personal
21 interpretation, because obviously I wasn't involved in
22 writing this annual report. But my personal
23 interpretation is if you have a high cost system and it
24 continually needs either upgrades or very high expenses
25 and the revenues are not covering those expenses or

1 those capital costs and will not be for the foreseeable
2 future, and that has the potential of causing the rest
3 of the customer base to either increase their rates or
4 they have to absorb some of that cost.

5 So in my -- my personal opinion is if you have
6 that type of a system and there's just no way that it's
7 going to ever recover the cost and not have a detriment
8 to existing customers, then you look and evaluate, would
9 it be in the best interest of the customers and the
10 company to potentially sell that system.

11 **COMMISSIONER EDGAR:** Thank you.

12 **CHAIRMAN GRAHAM:** Commissioner Brisé.

13 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.

14 A couple of questions. I guess we'll start
15 from that vantage point of looking at the benefits or --
16 yeah, the benefits of being part of a larger company
17 such as Aqua versus being a standalone. And I'm
18 thinking about, say, if you're an Arredondo Farms
19 customer, what is the true benefit that that customer
20 receives by being a customer of Aqua Utilities versus
21 Arredondo Farms Utility?

22 **THE WITNESS:** It's tremendous. You know, I've
23 traveled all over the State of Florida meeting with
24 customers of almost every utility within the State of
25 Florida. I worked on rate cases where I personally felt

1 bad because the cost and the increase to customers would
2 be significant.

3 But unfortunately, when you have these small,
4 either mom and pops, or in the '80s the developers came
5 in the State of Florida and unfortunately built these
6 systems in an effort to sell the homes and you didn't
7 charge for the water, wastewater, or charged very low,
8 sold the homes, and then exited the state. So there's a
9 proliferation of hundreds of these small systems
10 throughout the State of Florida.

11 In order to try to keep that under control,
12 the Commission did several things. They looked at,
13 well, let's see if there's a way to consolidate. And I
14 think I, in my rebuttal testimony or in one of my, that
15 I refer to some papers that are on the Public Service
16 Commission website about viability of consolidation.

17 And consolidation allows numerous things. One
18 is that you have more customers to spread the cost over.
19 In our case, we have national contracts on
20 transportation. We have, even within the state we have
21 synergies. We just recently renegotiated some contracts
22 on some chemicals. We've actually made adjustments in
23 this rate case to reduce those expenses so that we can
24 now have larger contracts on, you know, supplies to
25 provide the service at a less cost.

1 We're able to share, you know, operators that
2 can cover numerous systems, reducing the cost, where if
3 you had a small system, they have to have, they still
4 have to have the same operators and they have to have an
5 accountant, they have to have someone to send the bills,
6 they have to have employees, but they don't have that
7 many customers to spread the cost.

8 So I think, I think we can attract better
9 qualified employees to provide the service to the
10 customers than a small company can. A lot of these
11 companies get in serious, serious trouble with DEP.
12 I've seen it all over the State of Florida where they
13 just cannot get the money. They don't have the capital.
14 They can't go to a bank and correct a deficiency at the
15 wastewater plant who might be leaking into a lake or a
16 pristine water body.

17 So there's a serious, I guess, problem in
18 Florida with these small systems who, as your workshop
19 that you recently had illustrated, that there's these
20 needs to meet the EPA standards, the DEP standards, to
21 make the investment. Unfortunately don't have the
22 capability, financial capability to meet those, those
23 requirements. And then when they do come in for a rate
24 case, it's a significant impact to the customers because
25 they have very high rates.

1 **COMMISSIONER BRISÉ:** You and I were at many of
2 the customer hearings --

3 **THE WITNESS:** Correct.

4 **COMMISSIONER BRISÉ:** -- that we had. And one
5 of the things that was a common chorus across the state
6 was that from the vantage of the customer, that the
7 rates where they are currently are very difficult for
8 them to manage. And I'm skirting around the word
9 affordability on purpose, or affordable on purpose. But
10 I'm saying that it's very difficult for them to manage.

11 How does the, the concept of a uniform rate
12 structure provide current relief and then future relief
13 to those customers, say, a year or two down the line,
14 two years down the line with, with things that are
15 outstanding that we all will agree that things that are
16 outstanding that need to be done to improve these
17 systems to deal with some other aesthetic things and so
18 forth?

19 So how would that positively impact the
20 customers' experience with respect to how they manage
21 being able to manage -- being able to pay the bill?

22 **THE WITNESS:** Sure. Several points. One is
23 short-term it would benefit the systems in the previous
24 water band 4, you know, now they've been merged, but
25 prior to the filing, the systems in water band 4, their

1 rate, their bills would have went down. I believe the
2 wastewater band, I want to say 3 would have went down.
3 So it benefits the ones receiving subsidies where their
4 rates actually will go down, and some of the subsidies
5 they're receiving would be smaller.

6 Now one case in point, Peace River. We're
7 having to spend over \$200,000 on this gross alpha
8 removal system. There are 85 customers there, that's
9 it, and many are below, you know, they're at the lower
10 end of the socioeconomic. They're at poverty level.
11 I've been there. I've talked to these customers. I've
12 worked with the county commission. And that's one of
13 the things I discussed with the county commission, the
14 county administrators, that if you don't consolidate
15 them within a rate band, they can't afford the rates.
16 Especially -- this was even before we were having to do
17 this, this treatment system.

18 So those customers, I don't know what would
19 have happened to them if they were not brought into the
20 umbrella of AUF under the Commission jurisdiction and we
21 were allowed to consolidate them into a rate structure.
22 So that's a significant benefit to them.

23 Long-term, you know, we're working on our
24 secondary water aesthetic program. I've met with the
25 customers of Zephyr Shores. I've met with the customers

1 of Lake Josephine and Leisure Lakes. Those small
2 systems, they want good water, and they said we're
3 willing to pay for it if you provide the good water and
4 remove the hydrogen sulfide that's been there for years.

5 But if they were, if they were to pay for it
6 on a standalone basis, they may have a different idea.
7 They may say, well, I can't afford to have my water
8 treated to the level I want to. Even though it's
9 meeting primary standards, I still want it a little bit
10 better. I want it to taste good. I don't want it to
11 smell like rotten eggs. But they may not be willing to
12 pay for it. They may say I'm not going to, but I'm not
13 going to pay for it. So consolidation helps in that
14 aspect too. When we try to address customers' concerns,
15 we can spread those costs. And so they have smaller
16 rate increases over a long period of time, and we're
17 able to provide a better service, I think.

18 **COMMISSIONER BRISÉ:** So a follow-up to that.
19 Does that minimize then future -- I mean, frequent
20 future need for rate cases to raise rates potentially?

21 **THE WITNESS:** It could. If there's no
22 unforeseen large capital investment or any large, you
23 know, environmental need, it could. That's, that was
24 one of the subject matters of a bill that we worked with
25 at the Legislature, to try to get these small

1 incremental increases to address the capital structure
2 need and stay out of rate cases so you don't have 30,
3 40% increases in rates.

4 **COMMISSIONER BRISÉ:** Final question, something
5 completely different. You have this confidential
6 folder, and I think the question was posed earlier about
7 employee number 36 and the fact that they had been there
8 for a long time and they hadn't received a rate -- not a
9 rate increase, but a salary increase for a while. Was
10 that someone that was with the system prior to Aqua
11 purchasing the system, or was that individual brought in
12 by Aqua?

13 **THE WITNESS:** If I can look at the -- I don't
14 have the folder.

15 **COMMISSIONER BRISÉ:** Page 1 of 2, number 36.

16 **THE WITNESS:** Unfortunately these employees
17 have been, their names don't appear. I had another
18 folder which I thought I brought with me that had names.

19 But I do know that we have numerous employees
20 that used to work for Florida Water that still work for
21 Aqua that -- the last time Southern States, which was
22 Florida Water, has come in for a rate case was 1996. So
23 theoretically it could be a Florida Water customer who
24 hasn't had a rate increase because there hasn't been a
25 rate case for 16 years. That could be one of them. And

1 I do apologize if -- maybe by the time I come back up
2 for rebuttal I can get my copy with the actual names on
3 it.

4 **COMMISSIONER BRISÉ:** Thank you. Because that
5 helps put in perspective the, the increase in salary
6 from that perspective, at least for, for, from my
7 vantage point.

8 At this time I think those are all the
9 questions that I have for you. Thank you.

10 **CHAIRMAN GRAHAM:** Commissioner Balbis.

11 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
12 I have a few questions.

13 To follow up on the line of questioning from
14 Commissioner Brisé concerning staffing, you indicated
15 that the proposed increases were not a cost of living
16 increase, but more based on market, market analysis in
17 order to attract and/or retain employees. Is that
18 correct?

19 **THE WITNESS:** There's actually two increases.
20 And if I may, unfortunately the wording in my testimony
21 is not the best it could be.

22 The first increase is a merit
23 performance-based. And, as Mr. Szczygiel testified to
24 yesterday, some customers -- I mean, sorry, some
25 employees may not get any increase. Some may get a 1%

1 increase, some may get a 6% increase. But across the
2 board, the dollar amount averages around 4% a year. But
3 it is a performance-based, based on their evaluation
4 made each year on their particular merits.

5 The second increase is the market study, and
6 that was the market study conducted by Saje that the
7 Commission ruled upon in the last rate case. That's a
8 comparison of the, the UTs and the operators out in the
9 field. It's only the ones in the field and what their
10 comparable salaries would be to the market for their
11 positions.

12 So there's actually two different increases.
13 The one in the, in the folder is the market study, not
14 the merit one.

15 **COMMISSIONER BALBIS:** Okay. I notice in the
16 confidential folder for the listings of water licenses
17 that you do not have an operator that has an A license.

18 **THE WITNESS:** An A water license? I see a
19 couple A wastewater licenses. On 5 and 6 I think
20 there's two A wastewater.

21 **COMMISSIONER BALBIS:** Yeah. I'm just focusing
22 solely on the water part of it.

23 **THE WITNESS:** Okay. Sure.

24 **COMMISSIONER BALBIS:** I do know that Florida
25 as a whole has had difficulty in, you know, there's a

1 lot of retiring A level operators and it's been very
2 difficult to attract them. Do you have a lot of -- or
3 any open positions that you're having difficulty filling
4 due to the salary range?

5 **THE WITNESS:** I believe we do. I know that we
6 had an Area Coordinator hired last year. He actually
7 attended a couple of the customer service hearings. He
8 left our employment. He only stayed for, I believe,
9 three or four months. I don't know specifically, but I
10 believe we do.

11 **COMMISSIONER BALBIS:** And do you track how
12 long it takes to fill a position?

13 **THE WITNESS:** I, I personally do not.

14 **COMMISSIONER BALBIS:** And is there a lot of
15 turnover in these positions? I mean, something that we
16 can quantify, especially if a portion of this increase
17 is to retain employees.

18 **THE WITNESS:** That information may have been
19 supplied in discovery. I personally don't have the
20 information in front of me, the turnover rate. I know
21 that in both cases we made adjustments to remove the
22 terminations or people leaving, and then we've added in
23 the new employees. So I might be able to get the
24 information through those files, which I'll provide to
25 the Commission, of how many had left in the last rate

1 case and how many had left in this rate case.

2 **COMMISSIONER BALBIS:** Okay. And let me change
3 gears a little bit and talk a little bit about the rate
4 band and consolidated rate methodology. Has -- have you
5 or has Aqua benchmarked any of these systems, these
6 small consolidated areas that may be easier to bid out
7 the operations, the billing system, et cetera, just to
8 kind of do a check on how much it costs Aqua to operate
9 these systems?

10 **THE WITNESS:** Well, two things. One is we do
11 contract operator services in numerous of our systems.
12 I think in Lake Osborne we have a contract operator. At
13 one time we had one in South Seas, but I believe now we
14 have an employee there. We have some in some of our
15 small systems. We do have some contract operators.

16 As far as billing, that's performed by our
17 Aqua Services, which was the subject of -- or ACO, one
18 of our affiliates that Mr. Szczygiel testified to
19 yesterday. And we have conducted the market study that
20 shows our costs are below the market for those type
21 services.

22 **COMMISSIONER BALBIS:** Your costs per employee,
23 I believe -- well, I don't want to go into his
24 testimony, and I believe he will be back for rebuttal
25 testimony. But, okay.

1 And then I want to focus on the meter
2 replacements. And you indicated to provide better
3 customer service in response to customer complaints, you
4 went forward with replacing the meters. But you could
5 have replaced the meters with non-RF meters or touch pad
6 type meters; correct?

7 **THE WITNESS:** We could -- the meters
8 themselves were replaced. The addition of the RF was
9 very minimal. It's just a, it's a device. I mean, you
10 had to replace the meter itself, and then the RF is
11 another unit that's attached by a wire. So the meter
12 replacement was to replace the meters, the actual meters
13 that's registering the water. The RF unit was added for
14 efficiencies in meter reading, to lower cost, to, to
15 actually be able to read the meters in a more efficient
16 manner to meet, you know, to meet our metrics.

17 So there's two things. The meters themselves
18 were old and needed replacing. The RF was just a unit
19 to add to the meter for meter reading.

20 **COMMISSIONER BALBIS:** And you indicated that
21 there was a pilot program?

22 **THE WITNESS:** That was in, from, from speaking
23 with Mr. Lihvarcik, that was the initial plan, to do a
24 pilot project. But through the last two rate cases and
25 the customer complaints and working with the Staff, it

1 was decided to go ahead and move forward with the entire
2 replacement to address all the concerns of the
3 customers. I believe originally it was going to be done
4 in phases over a period of time, but because of the
5 concerns with the old meters, it was decided to go ahead
6 and replace them all.

7 **COMMISSIONER BALBIS:** Now did Aqua move
8 forward with adding the RF component of the meters just
9 in Florida or company-wide?

10 **THE WITNESS:** I believe it's prevalent through
11 most of our systems. So I think it's the majority of
12 our systems in the majority of our states have the RF.

13 **COMMISSIONER BALBIS:** And was that done at the
14 same time, or they were always RF and Florida was the
15 last one that didn't have an RF component?

16 **THE WITNESS:** I'm not sure. I know that we
17 came in the state in 2003, 2004, and the meters weren't
18 replaced until 2008 and 2009. So we're probably one of
19 the last states, but that's just my guess.

20 **COMMISSIONER BALBIS:** But it could be that all
21 of the meters throughout all of nationwide Aqua's
22 territory were, the RF component was added to it. That
23 could be the case and you're just not sure?

24 **THE WITNESS:** I don't know. I really hate to
25 guess.

1 **COMMISSIONER BALBIS:** The additional cost for
2 adding the RF component, do you have any information
3 that indicates how long before that additional cost is,
4 is paid back, the return on investment of that
5 additional cost versus, you know, due to the staffing
6 reductions?

7 **THE WITNESS:** The -- I believe that the
8 depreciation rate on meters are, is either -- I think
9 it's 20 years. So they're depreciated over a 20-year
10 period, so you get 1/20th of that cost each, in your,
11 excuse me, in your depreciation and a rate of return on
12 it.

13 In the last rate case we actually got a meter
14 installation charge approved, and in that we broke out
15 the different components of how much the meter costs,
16 the installation costs, and the RF costs. And if my
17 memory serves me well, the RF was a very small portion
18 of the actual meter replacement. I think the meters are
19 around \$110, and maybe the RF are around 45 or 50 bucks.

20 **COMMISSIONER BALBIS:** But how long before that
21 additional cost is paid off, with the -- realized
22 through the savings of staff reductions and the other
23 efficiencies?

24 **THE WITNESS:** I can't answer that without
25 actually sitting down and analyzing it.

1 **COMMISSIONER BALBIS:** Did the company do that
2 sort of analysis?

3 **THE WITNESS:** We looked at the reduction of
4 costs and the metrics. I don't know if, if that was
5 done by someone before I came to Aqua or not.

6 **COMMISSIONER BALBIS:** Okay. And last
7 question. You indicated that, in response to
8 Commissioner Edgar's question on, on growth through
9 acquisition and that you can bring on these additional
10 systems and spread out the, the overhead costs, if you
11 will, and that would be a benefit to the existing
12 customers; is that correct?

13 **THE WITNESS:** That's correct.

14 **COMMISSIONER BALBIS:** And I can't help but
15 make an analogy to used and useful, which is, you
16 discussed at length in your testimony. But wouldn't
17 that indicate that you have unused overhead, if you
18 will? That you have, you have a, a system that can
19 handle a million customers but you only have 500,000
20 customers, that 50% of that overhead is not being used
21 as efficiently as it should?

22 **THE WITNESS:** No. I don't think I would agree
23 with that.

24 **COMMISSIONER BALBIS:** And then a final comment
25 or question. You -- I agree with the other benefits to

1 the customers on the economies of scale, reduction of
2 chemical costs, operator costs. Basically you seem to
3 list all of the costs in operations and maintenance
4 other than the two largest cost components of operations
5 and maintenance, which is the other contractual services
6 management and other contractual services other -- or
7 contractual services other.

8 What -- are there any efficiencies realized in
9 those two cost centers for the individual utility, due
10 to the fact of having Aqua be the parent company?

11 **THE WITNESS:** For the one being purchased?

12 **COMMISSIONER BALBIS:** No. For the existing
13 customer. Back to Commissioner Brisé's analogy of
14 Arredondo Farms, do they get any benefit of having those
15 services? Because I agree with the chemical costs, the
16 purchase costs, et cetera, operational costs, but what
17 about the management fees?

18 **THE WITNESS:** I believe those are allocated on
19 a per customer basis from the affiliate, the majority of
20 them. So they would be allocated down to that system
21 based on the number of customers.

22 I'm trying to think. I don't know if I can
23 provide the answer you're looking for, if there are
24 efficiencies in those types of costs. I think they're
25 shared dollar for dollar. So I don't know if I can

1 answer that. Mr. Szczygiel may be able to provide more
2 detail since he's testifying to affiliate transactions.

3 **COMMISSIONER BALBIS:** And my line of
4 questioning is that you had answered Commissioner Brisé
5 in listing all of the different efficiencies that are
6 made.

7 **THE WITNESS:** Uh-huh.

8 **COMMISSIONER BALBIS:** And the two that you
9 failed to mention were the management fees and the
10 other.

11 **THE WITNESS:** Sure. I can, I can provide an
12 answer for the in-state, if that would help. In-state,
13 there's over -- there's management fees and that's the
14 President, the Controller, the Engineer, who, who's up
15 here who works for Aqua Utilities. Those costs, yes,
16 there are efficiencies.

17 The, the lease, the lease for the office
18 building, the corporate office building, the
19 electricity, those are shared by bringing on more
20 customers, reducing the cost of the existing. So those
21 type management fees, the in-state, yes, there are
22 efficiencies.

23 What I was alluding to is the out-of-state
24 affiliate costs. Mr. Szczygiel may have more
25 information on that. But the contractual services,

1 other in-state, there's definitely efficiencies.

2 **COMMISSIONER BALBIS:** Okay. And I don't know
3 if you understood my question. So I'm not looking at
4 acquisitions, I'm not looking at any additional
5 customers coming on board. But if you're an existing
6 utility, Arredondo utility, and the prospect of having
7 Aqua be the owner of the utility where you would receive
8 the benefits of economies of scale, you would have
9 reduced chemical costs, reduced operator costs, et
10 cetera, but on top of that -- or is it on top of that?
11 I don't know. This is the question. Is that weighed
12 against the additional costs which are the management
13 fees or the contractual services other?

14 **THE WITNESS:** Based on my experience through
15 working on these over the past 20 years, I think there's
16 definitely efficiencies, because these small systems
17 would still have to have the same functions, the same
18 type of expense, but spread over a smaller customer
19 base. So I think I can answer you affirmatively, yes,
20 there are efficiencies.

21 **COMMISSIONER BALBIS:** And, but those are not
22 quantified?

23 **THE WITNESS:** You would have to look at each
24 individual acquisition, depending on what their current
25 number of customers are. I mean, you would have to

1 quantify it on each individual acquisition.

2 **COMMISSIONER BALBIS:** And the difficulty in
3 that is that you, they're placed in a rate band, so it
4 makes it difficult to carve out an individual system.

5 **THE WITNESS:** Not initially. In the State of
6 Florida, when there's a, a transfer, you bring in the
7 existing rates unless you apply for a limited
8 proceeding. So initially when you come in, there are
9 standalone rates. Now, are they cost-based rates? They
10 may not be. If that utility never came in for a rate
11 case or hasn't been in for numerous years, they may not
12 be cost-based rates. So that might be one of the
13 reasons they're selling the system, because they can't
14 cover the cost.

15 So, like I say, it would have to be each
16 individual acquisition to be analyzed individually.

17 **COMMISSIONER BALBIS:** Okay. Thank you. I
18 have nothing further.

19 **CHAIRMAN GRAHAM:** Commissioner Brown.

20 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.
21 And seeing that it's lunchtime, I will try to go rather
22 quickly through my questions. I don't have a lot.

23 The cost, the cost of, cost of living salary
24 request is based on, is for all employees, including
25 executive management?

1 **THE WITNESS:** Well, as I testified, it's not a
2 cost of living adjustment. It's actually a
3 performance-based. So some employees may receive an
4 increase and some employees may not, depending on their
5 performance for that particular year. So it's not
6 across the board and not every customer will receive an
7 increase.

8 **COMMISSIONER BROWN:** You mean employee?

9 **THE WITNESS:** I'm sorry. Employee.

10 **COMMISSIONER BROWN:** I thought earlier you
11 said to Commissioner Balbis though that there are two
12 different increases, a cost of living, in comparison, I
13 guess -- in accordance with this market-based salary
14 study, and then a merit or incentive-based increase.

15 **THE WITNESS:** The merit one based on
16 performance is what unfortunately was referred to as a
17 cost of living. The market study, which is in the red
18 folder, is another increase. There's two actual
19 increases to salary. One is a performance or
20 merit-based, and the other is a market-based study.

21 **COMMISSIONER BROWN:** Okay. Then the
22 market-based study, is that increase being requested
23 just for operators and field technicians?

24 **THE WITNESS:** It's -- correct. There's very
25 few, if you look at the -- I think there's -- let me

1 see. It looks like there's one, two -- it looks like
2 there's very few of them, but, yes, it's only the field
3 employees, the facility operators and the UTs.

4 **COMMISSIONER BROWN:** And that's why the Saje
5 study was limited to just those employees?

6 **THE WITNESS:** Correct. I believe the thought
7 was, as discussed in the last rate case, is let's do a
8 market study on our field technicians. And then after
9 those, after that's done, then do a more comprehensive
10 study on the rest of employees so that we look at all
11 the office employees and the officers in the various
12 states and see how they compare to the markets.

13 But the first one, which I personally think is
14 the most important, are the field operators and the
15 people who have the first line contact with customers
16 and are out there making sure we're environmental --
17 that we are meeting environmental standards. So I think
18 that was the thought, let's get them to market first.

19 **COMMISSIONER BROWN:** Has the company done a
20 similar market study for the other merit-based
21 considerations, employees?

22 **THE WITNESS:** The way I understand it, they do
23 one every year, and that's how the -- Aqua determines
24 what the appropriate amount of merit base would be, is
25 that our HR department looks at the industry every

1 single year before determining what the appropriate
2 amount would be to give employees based on their
3 performance.

4 **COMMISSIONER BROWN:** Has the company provided
5 that as a discovery item?

6 **THE WITNESS:** I don't, I don't think that was
7 asked.

8 **COMMISSIONER BROWN:** Okay. I do believe
9 earlier you said that there was some turnover among
10 certain employees. Is that correct? One of the
11 intervenors asked you about turnover?

12 **THE WITNESS:** Correct. To my personal
13 knowledge, I know there has been some turnover.

14 **COMMISSIONER BROWN:** Has the company -- does
15 the company intend to add employees to its current
16 staff?

17 **THE WITNESS:** We've actually done the
18 opposite. We've actually consolidated functions,
19 consolidated duties, and reduced our employees. As I
20 indicated, the salary expense in the current case is
21 less than the last rate case, and the auditor has
22 determined that our test year salary is actually 11%
23 less than '08.

24 The way we did that was we eliminated the
25 maintenance group, and then the, the field operators and

1 the UTs were able to absorb that duty. They're able to
2 absorb the meter reading. So actually they have more
3 duties come on. The environmental specialist that we
4 had left about a year ago. Those duties and
5 responsibilities are now under the engineer that was
6 there, so she's, she's taken on those additional
7 responsibilities. The administrative secretary left.
8 We're not, we haven't replaced and we may not replace.

9 So the existing customers [sic] have actually
10 taken on more duties and responsibilities since the last
11 rate case.

12 **COMMISSIONER BROWN:** Thank you. And my last
13 question, switching gears, Mr. Richards interpreted
14 Southern States in a way that seemed to suggest that the
15 first DCA approved the methodology in that case because
16 it was a modest deviation from a standalone rate
17 structure. And I think he asked this question too, but
18 for clarity, if you could answer the question, under
19 uniform rate structure, do you believe the rate
20 deviation would be modest for water and wastewater,
21 using the PAA rates?

22 **THE WITNESS:** I do.

23 **COMMISSIONER BROWN:** How about the pre-PAA
24 rates?

25 **THE WITNESS:** Could you restate the question?

1 I'm sorry.

2 **COMMISSIONER BROWN:** With the understanding,
3 with the interpretation that Southern States approved
4 the methodology because it was a modest deviation, under
5 a uniform rate methodology, as proposed by Aqua, would
6 it be considered -- would you consider it a modest
7 deviation using the pre-PAA rates in comparison to the
8 uniform rates?

9 **THE WITNESS:** I do.

10 **COMMISSIONER BROWN:** Okay. Thank you.

11 **CHAIRMAN GRAHAM:** Mr. May, do you have any
12 redirect?

13 **MR. MAY:** No, sir.

14 **CHAIRMAN GRAHAM:** Okay. I was going to say we
15 can do it after lunch. But if you don't have any
16 redirect, then let's enter the exhibits that we need for
17 this witness.

18 **MR. MAY:** Mr. Chairman, Aqua would move
19 Mr. Rendell's exhibits, which are designated as hearing
20 Exhibits 68, 69, and 70.

21 **CHAIRMAN GRAHAM:** We'll move 68, 69, and 70.
22 Intervenors?

23 **MS. CHRISTENSEN:** OPC would move Exhibits 305
24 through 309.

25 **CHAIRMAN GRAHAM:** That's 305, 306, 307, 308,

1 and 309.

2 **MR. RICHARDS:** Pasco County would move Exhibit
3 310.

4 **CHAIRMAN GRAHAM:** Pasco is moving 310.

5 **MS. BENNETT:** Staff requests Exhibit 177 be
6 moved in.

7 **CHAIRMAN GRAHAM:** Ms. Bennett wants 177.

8 Are there any objections on any of those
9 exhibits going into the record?

10 (No response.)

11 Okay. We'll enter those exhibit into the
12 record.

13 (Exhibits 68, 68, 70, 177, and 305 through 310
14 admitted into the record.)

15 I have a quarter after 1:00 right now. Let's
16 break for lunch, be back here at quarter after 2:00.

17 **MS. BENNETT:** Mr. Chairman, before we break,
18 the red folders, Ms. Farley needs to collect them.

19 **CHAIRMAN GRAHAM:** Back here quarter after
20 2:00.

21 (Recess taken.)

22 (Transcript continues in sequence in Volume
23 4.)

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STATE OF FLORIDA)
 :
COUNTY OF LEON)

CERTIFICATE OF REPORTER

I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 8th day of December, 2011.

Linda Boles
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